THE Freeman

IDEAS ON LIBERTY

JULY 1967

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THE FREEMAN JULY 1967
Vol. 17, No. 7

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THE Freeman

JULY 1967 Vol. 17, No. 7

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Wide World Photos

IN MEMORIAM:

KONRAD ADENAUER

WILLIAM HENRY CHAMBERLIN

GERMANY has lost one of her greatest statesmen. Konrad Adenauer faced problems far more difficult than those which confronted Bismarck. As the remains of the 91-year-old Chancellor were consigned to the soil of his native Rhineland, the German Republic mourned the loss of its founding father. He was the individual to whom she mainly owed her rapid return to political and moral esteem and economic prosperity after the fearful ravages of Hitler's dictatorship and the Second World War. America and Western Europe had reason to lament the loss of a stanch friend and ally. And the world is poorer for the loss of one who cherished and embodied some of the finest values of nineteenth century civilization.

In the personality and career of Konrad Adenauer, a career which began after those of most of his contemporaries were finished, the man and the hour met with singular appropriateness. It is an old German legend that the famous twelfth-century Emperor Frederick Barbarossa is not dead, but sleeping in the heart of a magic mountain, from which, at the time of Germany's greatest

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need, he will emerge as his country's savior and preserver. Although free entirely of the extreme racist nationalism of the Nazi era, Adenauer has made this legend come true. He combined some of the best qualities of the Old Germany – devotion to duty, willingness to work without stint or limit – with a keen and just appreciation of the position, needs, and limitations of the New.

In order to appreciate the magnitude of Adenauer's achievement one must think of Germany, not as the busy, prosperous land of today, but as the broken, prostrate country of the first postwar years. Large parts of her cities were great masses of rubble. Her currency was worthless. The country was divided into four zones of occupation. Her people were reduced to a near-starvation diet and deprived of hope to improve their condition in the future by harsh restriction on what Germany was supposed to produce in steel and other industrial goods.

Reasonable Goals

When German self-government, with many limitations and restrictions, was restored in 1949, Adenauer took over as the first Chancellor, or Prime Minister. He set himself a few clear and simple goals, all of which, with one exception, he realized with remarkable speed and success. A true conservative, in the best sense of the term, he abhorred communism as he had detested Nazism. (Hitler deposed him as burgomaster of Cologne, and he spent part of the Nazi era in prison or in hiding).

Putting aside any idea of trying to play off the victorious powers against each other, the Chancellor committed himself to wholehearted cooperation with Western Europe and the United States. He recognized that Germany could regain freedom and prosperity only as a part of a larger Europe, with the backing of the United States.

A second foundation stone of Adenauer's policy was belief in freedom as the key to economic recovery. So he gave his Economics Minister, Ludwig Erhard, a free hand in sweeping away rationing, controls, the whole network of bureaucratic regulations which had grown up under Nazi rule and had been more or less mechanically continued under Allied occupation.

This wager on free economic enterprise was not simple or easy. There were loud outcries of protest from the socialists who furnished the main opposition to Adenauer. Erhard was denounced for permitting imports of luxuries like cigars and foreign fruits and

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vegetables while many Germans lacked an adequate supply of necessities. American and British economic officials, many being of Keynesian persuasion, were horrified. But the experiment in setting Germany's course on a free market economy worked so well that it ceased to be called an experiment and was referred to as "the economic miracle." As Erhard had foreseen, with Adenauer's approval, unrestricted imports paved the way for ever larger exports, regaining and improving Germany's position in the markets of the world. At the same time the inflow of foreign goods created incentives for harder work and a competitive spur to make the reviving German industries improve their quality of output.

A third basic trait of Adenauer's policy was the determination, as soon as possible, to honor Germany's foreign financial obligations and compensate the surviving victims of the Nazi terror against the Jews. Prewar bonds that had been virtually repudiated by Hitler were again honored and punctually redeemed. Large sums were allotted for compensation to individual Jews for their losses and a payment of a lump sum of about $800 million to the state of Israel. These payments were possible because Erhard's free economy had transformed former deficits in the German balance of international payments into substantial surpluses.

The Straight and Narrow

The Social Democratic leader in the first years after the end of the war, Kurt Schumacher, sneered at Adenauer as "the Chancellor of the Allies." But Adenauer, a most patriotic German, was anything but a foreign puppet. He reckoned, and correctly, that a reputation for straightforward dealing was one of his best assets for bargaining for the gradual but steady lifting of economic prohibitions and restrictions that had been created for Germany after the end of the war and cessation of the vindictive policy of dismantling German industry. One by one the restrictions came off; the dismantling ceased; and by 1955, equality and sovereignty for the German Federal Republic were accomplished facts.

Of course, the German upward climb to economic well-being was not exclusively the work of Konrad Adenauer. The intensive work of the whole German people was a big factor. Yet, it may be doubted whether any other statesman could have guided the first steps of the young Republic with such a sure and unerring eye for what was possible, and when.

Even the faults and limitations

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which Adenauer's opponents denounced were helpful in his role of restoring the regime of parliamentary democracy that had been abolished by Hitler. One of the Chancellor's closest collaborators once said to me in Bonn: "Adenauer is the same man we knew before the Nazi period, when he was burgomaster of Cologne, very hardworking, looking out for detail, intolerant of opposition, very sure he is right."

A Firm Hand

Adenauer knew every trick in the political book and was not averse to cutting corners to achieve his ends. His methods of administration were brusque, not to say dictatorial. But the German people instinctively wanted and psychologically needed the sense of a firm hand at the helm of the ship of state. A reversion to the multiparty wrangling and bargaining of the Weimar period would have been disastrous. Adenauer's conduct of affairs was vindicated by three successive election pluralities and majorities, in 1949, 1953, and 1957, each more impressive than its predecessor.

He was probably at the height of his popular prestige in 1957, when his party, the CDU (Christian Democratic Union), won a clear majority over all other parties. There was a slight setback in 1961, when he obtained a plurality, not a majority. This has been attributed to the shock caused by the unopposed erection of the Berlin Wall.

An even more enduring testimonial to Adenauer's political leadership was the change of front which his repeated victories imposed on his opponents, the Social Democrats. They had begun by attacking Erhard's free market economy and by resisting bitterly the build-up of German armed forces within NATO. But their actions of the past decade on both these issues amount to an admission that Adenauer had been right. In their Bad Godesberg program, adopted after the Adenauer electoral sweep in 1957, they accepted the free market economy and practically tossed their founding father, Karl Marx, out of the window. And, convinced by repeated rebuffs in Moscow that the Soviet government was absolutely averse to German reunion in freedom, they endorsed German rearming within the framework of a Western alliance.

So, even after Adenauer, at the age of 87, retired from his post as Chancellor, which he had held for 14 years, his main policies prevailed on a basis of general popular acceptance. Still another political success may be chalked up for him. Before the First

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World War and during the Weimar Republic, German political parties had been organized along class, religious, and regional lines. Adenauer's Christian Democratic Union was created on a broader basis, including Catholics and Protestants, industrialists, workers and farmers. It was a party that tried to attract all groups in the population. So long as the Social Democrats tried to keep on with their traditional appeal to the industrial workers, more or less ignoring other groups, they went from defeat to defeat. So, in self-preservation, they recast themselves in the image, not of a class party following Marxist lines, but as a "people's party," offering mildly left-of-center alternatives to the equally mild right-of-center policies of the CDU.

Unification of Germany: An Unfinished Task

One goal Adenauer failed to achieve: the reunion, in freedom, of his country. But this goal was not within the reach of any German statesman. Given the determination of the Soviet Government to maintain its puppet regime in its zone of military occupation, free elections and free institutions for all Germany could have been obtained only by war or threat of war — a risk which Germany's Western allies were unwilling to take. Even the Social Democrats, who clung for a long time to the hope that German reunion might be bought at the price of political and economic concessions, were finally brought reluctantly to realize that the only kind of United Germany which would be satisfactory to the Kremlin was a communist Germany.

If Adenauer could not achieve reunification, he did the next best thing. He created in the German Federal Republic a society so strong, stable, and prosperous that it served as a magnet to the oppressed Germans in the East, attracting every year hundreds of thousands of refugees, until the barbarous wall of separation was erected in 1961. There will be no doubt as to which of the sundered parts of Germany will take the lead if some unforeseen shake-up in world politics would make reunification a practical possibility.

To have met Adenauer as I have and seen him dominating debate in the Bundestag, not by flowery oratory, but by cool, precise, logical argument, gives an unmistakable impression of an uncommonly powerful personality. One would have to go back to Bismarck to find his equal; and Adenauer's mission of the restoration of a wrecked Germany was more difficult and delicate than Bismarck's welding the other German states

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into union around a powerful Prussia.

Classical Traits

Adenauer lived for a quarter of a century in the nineteenth century and both his grave courtliness of manner and some traits of his personality reflect its influence. His tastes in music and art were classical. The slogan with which he won one election, "No Experiments," held good for the cultural as well as the political and economic fields. Yet, there was an element of daring experiment in staking Germany's future on applying economic principles which are contemptuously dismissed in some "advanced" circles as "the conventional wisdom." Certainly, few experiments have been attended by such resounding success.

It is not surprising that the old Chancellor was not highly esteemed by German intellectuals; the lack of comprehension and sympathy was certainly mutual. But Adenauer's guiding moral and political principles, although few and simple and unsophisticated, served him well, especially in the brilliant climactic phase of his career. He knew very well, for instance, the value of honor and the pledged word; and he knew the difference between right and wrong.

This is why he went forward from one success to another, when a more superficially brilliant man, with more complex impulses, might have faltered and failed. The fact that Adenauer's goals were few and clearly shaped in his mind helps to explain his amazing physical vitality and resilience at an age when active life, for most men, has ceased. Adenauer's ability to outwork and outlast much younger subordinates was legendary. When protocol required, he could stand in hot sun or pouring rain, erect, unbending, showing no signs of fatigue. A German junior diplomat told me of an experience with Adenauer when he was visiting Paris. The young diplomat had been given the task of seeing the old statesman to his hotel room after a day of grueling and exacting receptions.

When the diplomat escorted Adenauer to the elevator the latter turned and, with a note of concern in his voice, said:

"Please don't trouble to come to my room. You look tired; go home and try to get some sleep."

Konrad Adenauer was a great German and a great European, a man uniquely qualified for the leadership of his country in the arduous years of recovery from the shambles to which Hitler and his crazy philosophy had reduced the country. He was not a cosmo-

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politan figure; he was not fluent in any language but German. But his judgments in international affairs were ripe and sound; there was no more devoted a champion of the ideal of a united Europe, backed by the United States.

On the new Germany that has risen like a phoenix from the ashes and rubble left by Hitler, he placed the stamp of his powerful personality in many ways. The gathering of distinguished foreign statesmen at his funeral was a tribute both to the man and to the state which he helped so much to build. The principal thoroughfare of Bonn, the Koblenzerstrasse, so often traversed by the Chancellor on his way to his headquarters in the Schaumburg Palace, has been appropriately renamed Konrad Adenauer-allée and his memory will doubtless be honored in other German cities. But Adenauer's best monument would be panoramic views of Germany as she was when he took office, in contrast to what she was when he retired fourteen years later. ◈

IDEAS ON LIBERTY

Martin Van Buren

ALL COMMUNITIES are apt to look to government for too much. Even in our own country, where its powers and duties are so strictly limited, we are prone to do so, especially at periods of sudden embarrassment and distress.

But this ought not to be. The framers of our excellent Constitution and the people who approved it with calm and sagacious deliberation acted at the time on a sounder principle. They wisely judged that the less government interferes with private pursuits the better for the general prosperity. It is not its legitimate object to make men rich or to repair by direct grants of money or legislation in favor of particular pursuits losses not incurred in the public service. This would be substantially to use the property of some for the benefit of others. But its real duty—that duty the performance of which makes a good government the most precious of human blessings—is to enact and enforce a system of general laws commensurate with, but not exceeding, the objects of its establishment, and to leave every citizen and every interest to reap under its benign protection the rewards of virtue, industry, and prudence.

From a Special Message to Congress, Sept. 4, 1837

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Epitaph for A PATRIOT

JACK MORANO

A FEW MEN probably hated Pop. They were workers he had caught stealing G. I. rations from the Army depot where he was a guard during the Second World War. He had a special knack for catching them "waltzing out," as he put it, with hams, legs of lamb, and other products or equipment stuffed under their jackets.

It wasn't getting caught that bothered them so much as it was what Pop would tell them in the process. "You bum!" (He said it in a way that went right through you, never jokingly. Calling people names was no joke to Pop.) "Don't you know that some G. I. is lying in some stinking fox hole praying for that? Hope to God it's never your son!"

No one else could say anything like that without sounding corny. But Pop couldn't be corny if he tried. And he never tried. His words were entirely spontaneous. And he meant everything he said. What he said came from a terrific pride in America. Pop was a super patriot. He would never have understood that the term is meant to be an insult now. To him it would have been the highest compliment. If you of the new generation find this hard to believe, please hear me. He was no square. He and his kind made the twenties "roar," real swingers in the literal sense of the word, sampling all of life to the hilt but getting their biggest kicks from courage. These were the men of World War I who were proud to be "over there."

Mom screamed as the rifles cracked over his grave that cold February day at Pinelawn Nation-

Mr. Morano is a member of the New York City Police Department.

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al Cemetery. When the platoon leader of the burial detail handed her the flag that was draped on his casket, she buried her face in it and sobbed, "That's all I have left – a flag. But that's how you wanted it, Lou, wasn't it? To go out like a soldier – wrapped in a flag." (And how better to remember Pop! For years, at his insistence, we had been the only family in the neighborhood with a full-sized American flag smack in the living room.) I didn't shed a tear. That is the way he wanted me to be – soldier like. But, today, I can't watch a parade without bawling like a baby.

It isn't because of the many parades I had watched with him. Not because he was forever pointing to the flag and saying, "Here it comes, kid – Old Glory! Isn't it beautiful?" It's because I can't help remembering Pop's walk. He didn't just walk – he marched. Not an arrogant, chauvinistic march, but a happy, proud-to-be-alive and *free* type of march. You could spot him in a crowd a mile away because of it. He looked like an Italian James Cagney. "Here comes your Pop," Mom would say. That walk displayed a bold pride, and also concealed the meanest scar you ever saw. A German "eighty-eight" fragment had passed through his thigh, taking half of it along on the way out. That he hadn't the slightest limp was beyond understanding.

"I knew I was going to get it," he confided to me as a boy. "I had made a promise to St. Joseph that if he got me out of the last show [battle] alive I would say a prayer to him every day. He kept his part of the bargain but I didn't. So I knew one of those ashcans [artillery shells] had my name on it." The force of the explosion hurled him against a tree in the Argonne forest. Not only was he wounded severely, but he and his buddies had another problem. They were caught in a trap. Completely surrounded by Germans and cut off from the main American force, they were the "Lost Battalion." His sister still has the letter from the U. S. Government regretfully informing her, "Your brother Louis Morano was killed in action."

But these soldiers were very much alive, as the Germans were to discover when they sent in a captured dough-boy bearing a beautifully-worded surrender request: "You must be very proud of this soldier. He has refused every question put to him and will only give us his name, rank, and serial number. But we can hear the cries of your wounded from our lines. We beseech you on their

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part, for the sake of humanity, there is nothing to gain by resisting further. Surrender and let us treat your wounded."

The American commander read the note aloud to his men. They spared him the agony of making the decision. In direct contrast to the eloquence of the note, they yelled back in their own "Hell's Kitchen" terms, "Come and get us, you Dutch bastards."

The rest is history. The Lost Battalion held out until an American relieving force was able to break through and rescue them. And Pop was soon home.

Home was the East Side of New York City, "where some of the worst hoods and finest men grew up side-by-side," Pop would say. He had a strong conviction that "it doesn't matter where you're from in this country – only where you're going. So long as you have the guts." He told me how most of the "wise guys" and "fast buck guys" he grew up with were now either behind bars or "standing in the East River with cement shoeshines." And when he noted my amazement at how casually he mentioned big-name Mafia leaders who came from his neighborhood, he reassured me, "The Mafia is nothing to worry about, kid. They only push those people who will let them. Like the poor old Italians who came to this country with a fear of them. But we're Americans, kid, and no so-and-so is going to push us around." One of his favorite mottoes was the one printed on the old colonial flag, "Don't tread on me!"

How Pop resisted pushing was related to me by one of his World War I buddies. A Connecticut "hayseed" when she married Pop, Mom was ill at ease in the gangsterland of the lower East Side where they set up their first apartment. Sensing this, he took her by the hand and marched down to the pool parlor across the street. This was the hangout for the local hoods. "Listen, you guys," he said. And all hands stopped in the middle of their games. "This is my wife, and our apartment is across the street. If I catch anyone near her or it, I'll break his back." Mom got a wide berth from then on, and there was not one case of back trouble on the East Side. Eventually, the Moranos moved to Staten Island.

One of my uncles, who couldn't read or write English, had economic gumption enough to open a dress factory during the depression. Not only did he thus amass a small fortune, but also he put most of my aunts and uncles and a few cousins to work, my mother included. But even with both Mom

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and Pop working, there wasn't enough to give my sister and me the education they wanted for us. So Pop began painting murals and backdrops for the local Catholic private school. The nuns in return gave us a break on the tuition. I didn't turn out to be the smartest kid in the school – my sister did; but I was the proudest. During the school plays, I would nudge the kids on either side of me, point to the scenery, and say, "My Pop painted that!"

When we first moved to Staten Island, our neighbors felt sorry for Mom. They heard Pop's gruff, East Side voice and assumed he was a tough of some kind. But they soon knew better. Despite his Bogart-like exterior, he was a gentleman – and an intellectual. Indeed, most people he engaged in conversation (and he did this with total strangers) credited him with no less than a college education. But he had never finished grammar school, having lost both parents at age eleven. The extent of his self-education made him the informal "lawyer" of the neighborhood. Relatives and friends were constantly ringing the doorbell to present Pop with their problems. He helped more people get their citizenship papers than has any nongovernment agency I've known.

One day, at the wedding of one of my cousins, the music stopped and the band leader announced: "The Japanese have bombed Pearl Harbor." Everyone was crying. I remember turning to Pop and saying, "The Japanese? The Nazis? Can we beat them, Pop?" He grinned confidently and reassured me, "This country has never lost a war and we are not going to lose this one." Chauvinism? No one had more respect than he did for the militarism and resourcefulness of the German people. Hadn't he fought them before? "But free men are still better fighters," he told me.

As I watched every one of my cousins who was of military age (nine in all) march off to war, I couldn't help feeling deeply envious. While Mom was thanking God that I was only nine years old, I was cursing my misfortune. I knew how to be a soldier. Hadn't my Pop taught me the manual of arms backward and forward since I was five? I even knew what Army chow tasted like; Pop always took us to the nearby Army base on "open house day" to eat in the mess halls. Why, at that age I could spot the technical errors committed by Hollywood in the war movies. After all, I had fought through every World War I battle, vicariously, with Pop. I could even tell you how a German

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"eighty-eight" sounded on its way over. Like being under a bridge as a fast freight train passes over it. Right, Pop?

There was only one person who wanted "in" more than I did. The recruiting officer must have had his laughs when Pop walked in and tried to re-enlist. He was fifty at the time – to say nothing of his wound. Pop walked out dejected and muttering, "Pansies. You guys are pansies. In my show we were soldiers."

So he had to be content fighting the battles from his armchair through the newspapers, explaining every action to me. His Gods were Ike and Mac. Though traditionally a Democrat, he voted for Ike when he ran for President. Not because of his hero image either, but because Pop was a conservative Democrat. He never forgave himself for voting for Roosevelt, who had campaigned on a conservative platform.

Pop died in February – the month of his birth, as well as that of two other great Americans. Unfittingly for a soldier, he died in bed, with his shoes off, in the Brooklyn Veterans Hospital. But he was surrounded as he would have liked, by veterans – some of them from his "show."

There was much weeping and wailing at the wake. But being of Italian extraction accustoms one to that sort of thing. What broke me up was when Pop's Jewish buddy walked in. He strode past everyone, and instead of kneeling at the casket in the Christian manner, he just stood there bowing up and down, tears streaming down his cheeks. It must have taken courage because most of the older Italians there probably didn't understand. He said to me as he was leaving, in a voice choking with emotion, "I never met a better American than your Pop."

The tombstone at Pinelawn just reads, "Louis Morano, Company I, 307 Infantry, 77 Division, February 24, 1891 to February 15, 1955." That is the way Pop wanted it: "Army style – plain and simple." But no man who loved his country so much deserves to go without a more fitting epitaph. I hope this will serve. Forgive me, Pop. ◈

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Business & Social Progress & Religion

BEN MOREELL

IT IS a disturbing phenomenon of our times that those intellectuals who decry the accumulated wisdom of past ages and urge that we discard the time-tested traditions and behavior standards of Western civilization are much sought after for places of distinction in many of our governmental operations, universities, foundations, and similar institutions. Those critics concede, somewhat reluctantly, that although our once-respected traditions and standards may have been relevant, perhaps even useful, in the days of the horse and buggy, they are outmoded and have no place in this jet-propelled era. In like manner, our "social engineers" assure us that our new-found knowledge of science, technology, civics, economics, and human nature has left the ancient wisdom far behind.

But there are some who dissent. As one who, over the years, has tried humbly to apply the lessons of history to modern problems, I am convinced that unless and until we are able to change the basic characteristics of human nature, the old virtues and values are still pertinent, perhaps even vital for our survival, in this modern age. There is persuasive scientific evidence that the basic nature of man has not changed for at least 4,000 years.

Admiral Moreell, Civil Engineer Corps, United States Navy (retired), was organizer of the famed Seabees of World War II, and served as Chairman of the Board of Jones and Laughlin Steel Corporation from 1947 to 1958.

This article is from an address before the Industrial Information Institute, Youngstown, Ohio, October 27, 1966.

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The late Edith Hamilton, world authority on Greek and Roman civilization, pinpointed the issue several years ago in these words:

"Is it rational that now, when the young people may have to face problems harder than we faced. . . we are giving up the study of how the Greeks and Romans prevailed magnificently in a barbaric world; the study, too, of how that triumph ended, how a slackness and softness finally came over them to their ruin? In the end, more than they wanted freedom, they wanted security, a comfortable life, and they lost all – security and comfort and freedom. . . .

"Are we not growing slack and soft in our political life? When the Athenians finally wanted not to give to the State, but the State to give to them, when the freedom they wished most for was freedom from responsibility, then Athens ceased to be free and was never free again. Is that not a challenge?"

Change, for Its Own Sake!

In face of such questions, frequently raised, it seems fashionable now to discard the old in favor of the new, presumably on the theory that change is inevitable, with its accompanying *non sequitur*, that since all progress results from change, all change makes for progress.

Many of us believe that the imposition of untried theories and untested procedures on a dynamic society is perilous and that changes in such an organism should be evolutionary rather than revolutionary, on the premise that running a jet aircraft into a stone wall is not the best way to stop it!

It is significant that, in recent decades, the areas selected for attack by those who would bring about drastic and immediate changes in the structure of American society have been, first, our basic religious beliefs, and second, the private industry sector of our economy.

The first is highlighted by the noisy and widely-publicized assertions of some theologians that God is no longer pertinent in this scientific age; in fact, that "God is Dead," and man has inherited His throne; weak, witless, sinful man, frequently unable to resolve the problems of his own small household, but supremely confident of his competence to plan and direct the orderly functioning of the Universe!

The attack on the second area, private industry, is evidenced by the rapidly increasing pace of the socialization of all sectors of our economy.

The entire country has careened toward socialism during the past

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half century. The Federal government now engages in several thousand businesses in competition with its own citizens, while private business operates in an atmosphere of governmental criticism, hostile suspicion, restrictive controls, onerous taxation, and costly snooping by government agents.

For several generations collectivism has been edging over our landscape like a gigantic icecap. Its progress has been uneven, so some of us have been encouraged to think that we might escape personal disaster by securing a politically privileged sanctuary, that is, by "playing ball" with those momentarily in control of the political apparatus of government. But it is now clear that not one of us will save his skin unless there is a rebirth of freedom for all.

Those two sectors of our social structure, religion and business, which have come under such heavy attack, are closely interwoven and interdependent. Together they have made great contributions to our social progress, and they hold enormous potential for the future.

The Record of American Progress

There are some who belittle American achievements. But a fair reading of the record reveals that our spiritual, cultural, and material progress in the relatively short historical period of our existence has been outstanding. I say this without boasting, aware that Americans cannot claim full credit, as we are heirs to the great traditions, accumulated wisdom and skills of Western civilization. The Founding Fathers learned important lessons from Europe's mistakes, lessons which, unfortunately, we now seem bent on unlearning.

Spiritual and cultural progress are revealed by changes in individuals. Thus they are not susceptible of statistical appraisal. But history has demonstrated that where the people are individually free, morally responsible, and self-disciplined, there is a climate conducive to spiritual and cultural growth. There is every reason to believe that America follows this historic pattern.

However, there are valid yardsticks for measuring economic progress. Here is a nation with barely 6 per cent of the world's people which produces almost 40 per cent of the world's goods. Our people have no more innate intelligence than the peoples of the countries whence they came. Our natural resources are no more abundant than those of many less prosperous nations. Furthermore, they lay for centuries relatively unused, supporting fewer than a million

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inhabitants. Now they support more than 195 million of our people, who, in turn, contribute importantly to the support of the rest of the world.

A Conditional Response

The progress achieved in America did not "just happen." It came about as the result of certain conditions established here many years ago by the Founders of our Republic.

The governmental system they initiated was founded on the belief that there is a Supreme Being, whom we call God, who rules the Universe and from whom all power and all authority flow. Since all men are creatures of God, each of us is sovereign in his relations with all other men. Furthermore, each is endowed by Him with certain inherent rights which no one, not even a government which acts under authority of an overwhelming majority, can take from him without violating the moral law. These are the right to life, the right to liberty, and the right to accumulate, utilize, and dispose of one's honestly acquired property which, in effect, is the right to sustain his life. To assure those rights our Founding Fathers established a government of strictly limited powers, which were to be defined by a written constitution, and which would safeguard certain basic freedoms, such as freedom of speech, of worship, of assembly, and others, including freedom of economic enterprise.

Our political forebears held that in the exercise of his God-given rights, each person is individually and morally responsible, his responsibilities being defined by such stern admonitions as the Ten Commandments, the Sermon on the Mount, and the Golden Rule.

There is much historical evidence to indicate that our Founders were committed to the concept that there is a place for God in every area of American life. Most conclusive, perhaps, is the statement by a neutral observer, the gifted French scholar, Tocqueville, who after an extended visit to America in 1831, wrote:

". . . whilst the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust. . . .

"Religion in America takes no direct part in the government of society, but it must be regarded as the first of their political institutions; . . ."

The Preservation of Liberty

We come now to this important question: What is the proper role of business and industry in the preservation and strengthening of

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those principles and practices which account for our incomparable progress?

Since we were conceived as a nation of sovereign individuals, it is clear that we can improve our social structure only as the individuals who comprise it improve themselves. *Any attempt to improve society by imposing improvement on individuals using the coercive power of government is futile!* The use of coercion to effect an alleged "good" destroys individual freedom of choice and erodes moral responsibility. It follows that the development by the individual himself of those positive personal traits which contribute to a good society will result in a maximum furtherance of the higher ends of life, i.e., scholarship, art, music, charity, and worship. Conversely, there are other personal traits which impede or prevent social progress.

Minimize Bad Traits

The question is: Do the forces set in motion by business and industry tend to maximize the good traits and minimize the bad ones? Let us see how business can generate a climate conducive to individual character growth by counteracting such destructive forces as coercion, prejudice, and irrationality.

1. *Coercion.* The greatest enemy of human progress is coercive force which acts to restrict man's creative energies. There is agreement among political philosophers that political action is coercive. What about business action: Is it coercive? Obviously, the answer is "No." The businessman, as such, has no power to coerce. He cannot force people to buy his goods or services. He may call upon government for special privilege and thus obtain a coercive monopoly. But by doing so he forfeits his status as a businessman and becomes, in part at least, a politician.

The production and exchange of goods and services is a wholly peaceful process. A business society tends to be a peaceful society, if only because peace maximizes the conditions under which the production and exchange of goods are facilitated. And peace is essential for social progress.

The businessman, having no means of coercion at his disposal, relies on education and persuasion. Since everyone at home and abroad is a potential customer, he must cultivate them. The peaceful exchange of goods and services throughout the world paves the way for exchange of ideas. This encourages travel and personal contacts. So, on the whole, business tends to reduce coercion in human affairs.

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2. *Prejudice.* A man's judgment can rise no higher than this acquaintance with the facts. Prejudice is a premature judgment based on insufficient evidence. As applied to human affairs, it implies a dislike of some people based on their opinions, their nationality, the color of their skins, or their religion. What does business do about overcoming prejudice? The clear-cut answer is that, in this area, economic considerations should have first priority for the prudent businessman. In general, the businessman does not concern himself with the color of another man's skin – if the color of his money is acceptable.

As an employer, the businessman penalizes himself when he refuses to hire the best available man for the job because of some noneconomic consideration. His business sense dictates otherwise. The same is true when, as a seller of goods, he refuses to make a sale for other than economic reasons. Thus, the mechanism of trade acts to break down the barriers of prejudice.

3. *Irrationality.* In a good society people act in reasonable, sane, and sensible ways, and business disposes them so to act. Modern business rests on technology which, in turn, rests on science. Science and technology demand a high-level, rational pattern of thought and action. The scientist, the engineer, the business manager must all be rational. Thus, business contributes to the forces in our society which exert a strong pull in the direction of rationality in human affairs.

Maximize the Good

Every reduction of coercion, prejudice, and irrationality affords more opportunity for creative individual development, which contributes to social progress. The elimination of bad conditions might be said to establish neutral ground. Let us see what desirable positive traits are fostered by business. There are at least four important ones: integrity, understanding, reasonableness, and individuality. Let us examine each of these briefly.

1. *Integrity.* No society can cohere for long unless people can trust each other. Nor can a business long endure unless its products represent honest materials and workmanship. Regular customers, an essential for survival of any business, cannot be attracted and held without a quality product. Our entire system of deferred exchanges and credit is based on trust. The enormous network of mutual trust and confidence which underlies our business system is a social force of great power and momentum, headed in

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the right direction. It makes for integrity throughout society.

2. *Understanding.* A hermit who grows his own food and produces for his own use consults only his own needs and tastes.

But everyone who produces goods or services for exchange must consult the needs and desires of other people. The businessman must build a clientele. He cannot do this unless he understands the needs of his customers and causes them to feel that he can be trusted to fill those needs, now and in the future, for products they want at prices they can afford to pay.

3. *Reasonableness.* The vital stake which business has in peace tends to create situations in which men seek a reasonable adjustment of their differences instead of fighting about them.

A businessman does not want conflict with his customers; he wants to persuade them to accept his goods. As the atmosphere of reasonableness begins to permeate all of society, people come to appreciate the variety in human life. Instead of a desire to make other people over in their own image, they want every person to progress as far as his personal talents will permit. In a reasonable society no man tries to play God for other men.

4. *Individuality.* To the extent that business and industry enable persons to take care of the economic requirements of life with a minimum expenditure of time and energy, increasing amounts of both are put at their disposal to be used in whatever individual and creative ways they see fit. Not every person will use them wisely, but if the surplus does not exist, if people are bound down by unceasing toil, there can be no flowering of those higher faculties which I have mentioned. Thus, business provides the essential condition which can release whatever potentiality individuals may possess.

Creative Forces Released

So we see that business serves people directly by being the most economic instrument for providing goods and services. And in noneconomic matters business is a useful servant to society as a whole, because it releases forces which make for integrity, understanding, reasonableness, and individuality.

It is generally conceded that an individual is most productive when he has a maximum of freedom from restraint, whether his energies find an outlet in religion, in writing, or in thought, or whether he is engaged in the production and exchange of goods and services. And, as a matter of fundamental principle, there is no more warrant for attempting to

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clamp political controls on man's energies in his shop than there is to place his energies under political control in his church, his classroom, his editorial office, or his study. If freedom is good in any of these places, it is good in all of them!

Attempts of Protectionism

What can we say about business and politics? There have been few businessmen who have not, at some time, found themselves with goods and services on their hands, but no market. This does not look good on the books, but business is a profit and loss system. If a businessman finds this happening to him regularly he'd better stop making high button shoes and get in step with current fashions. On purely business calculations he would either change his product in accordance with the demands of the market or go out of business. But there are other calculations, unfortunately not always so pure.

Up to about a century and a half ago, the businessman who wanted to keep making high button shoes, or their equivalent, when the market called for satin slippers, would go to the king and get a royal grant of monopoly. This would decree that no one else in the kingdom had permission to make shoes of any kind, which meant that those who wanted satin slippers could wear high button shoes — or go barefoot. The system was called mercantilism, and by royal patents, licensing, and controls it set up a network of restrictions and made business a a branch office of the crown.

It was easy for the intellectuals of the sixteenth, seventeenth, and eighteenth centuries to see what was going on: the king and his favorites had a monopoly on all business and industry, which they were throttling with their controls. In France, in the latter part of the seventeenth century, Colbert, Minister of Louis XIV, asked the manufacturer Legendre, what the Crown could do to help business. The answer became famous. "*Laissez nous faire,*" he replied, "Just let us alone." It was obvious that if the king and his henchmen were stifling business and keeping people in poverty, the remedy was to put the king in his place. And this was eventually achieved.

But the producer-politician alliance did not cease when monarchies gave way to republics. In every age and in every political arrangement there are some who try to keep producing goods for which there is no market, as witness our costly farm program of the past three decades. Such people are putting human and natural resources to wasteful use. The usual

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penalty for not using resources as the free market demands is to be forced out of business to make way for someone who will use the resources economically.

Democracy of The Market

The free market place is a true democracy. Every dollar is a ballot with which the people, by their purchases or their refusal to purchase, decide what is to be produced and who is to produce it.

But ever since the eighteenth century revolutions, which deposed the kings, people have been fascinated by the exercise of political power. At best, political power is wielded by representatives of the people who are responsible to the electorate. At worst, tyrants seize power and wield it despotically in the name of "the people." The worst despotisms in history are the modern totalitarian states, all of which call themselves "Peoples' Democracies."

As a former businessman, I am frank to admit that some businessmen have, knowingly or otherwise, played the political game. For quick returns, they have accepted, and some of them have sought, political favors and subsidies. This fact constitutes about the only argument the socializers have left in their arsenal. They demand more subsidies for farmers, more public housing, aids to education, medicare, urban renewal, dams, power plants, and many other "Great Society" subventions. To support their arguments they point to some businesses which government has subsidized.

Every businessman, who today refuses to be guided by the popular verdict of the market place and runs to government for help, tomorrow is slated to be controlled or taken over by government, together with his industry colleagues! This confronts every businessman with a serious moral problem. He has a heavy responsibility, not only for the future of his own business, but for the future of our way of life as well.

A Climate for Survival

It is unfortunate that not enough businessmen have real convictions about the social conditions which are essential if private business, as a relatively autonomous activity, is to survive. They think their job as businessmen is done if they are able to pay wages and salaries to employees and dividends to shareholders and maintain a going concern. But if we accept the thesis that each of us has a duty to preserve the cultural, social, governmental, and economic structures which made our national preeminence possible, it follows that if business is misconceived as an un-

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diluted effort for more money to the virtual exclusion of other values, business is not good for society as a whole. In fact, it is not even good for itself!

Without a reasonable assurance of profits, the businessman could not survive as a businessman. But there is more to his responsibility than maintaining profits. Perhaps it can best be summarized by saying that he, together with his fellow citizens, have an obligation to keep alive and healthy the goose which lays the golden eggs.

It is an interesting concept that society is a derivative of the market place. The human community does not come into being except as men are able to exchange their surplus energies in the form of goods, services, and ideas. If every man were self-sufficient, society would be inconceivable. The fact of human interdependence, as men are now constituted, implies the existence of media whereby this interdependence is manifest.

Freedom to Trade

A society is impossible unless there be some exchange, and it is rich and complex in the degree to which these exchanges multiply. And they will multiply unless they are sabotaged. So we need political government to protect exchange against sabotage. But time and again this protective function is perverted and government itself becomes the saboteur.

Let me suggest briefly what this means. Businessmen should know that the concentrations of power and the collateral responsibilities which are lodged with them must be exercised in the context of American life; that if private business does not assume community responsibilities, a social vacuum is created and government steps in; that bureaucrats are very adept at avoiding restraints with which the electorate attempts to protect itself; that American business must act as though it has a soul; and this is just as important for a huge corporation as for an individual businessman. Those of us in business should know that what we think, what we say, what we do, and most important, *what we are during working hours* cannot be divorced from the responsibilities we must assume as members of society at all hours! Those responsibilities can be discharged only as we participate to the full extent of our talents in the whole life of our communities.

The American social organization is a fabric, the principal threads of which are religion, industry, law, political economy, education, social well-being, and the cultural arts. It is not enough that business should tell the public only of its achievements in its

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highly specialized sphere of production and distribution. Unless American business moves into all of these areas at once and vigorously, they will soon be fully appropriated by those who believe and expound doctrines which will ultimately destroy our way of life and our businesses.

A Constructive Course

Where do we go from here? In light of our current national situation, what is the proper area and direction for our energies? It is evident that business cannot afford to sit on its historic achievements, significant as they are, while its past laurels are withering away.

The eyes of the world are focused on us. They are watching to see how far we will depart from those basic principles, defined by our Declaration of Independence and made operative by our Constitution upon which our political forebears erected this great Republic, principles which have been devoutly professed by our people over the years.

It is unfortunate that our two major political parties are now being pulled together by the strong magnet of economic panaceas to be administered by an all-powerful central government, a government which promises to deprive men not only of their God-given rights, but what is even more disastrous to their survival as moral beings, to relieve them of their personal responsibility to the social order.

It is a mistake to think of this development as the "new look" in political economy. It is as old as history. Those who look askance at constitutional conservatives because of our alleged "nostalgia for the days of McKinley" are themselves striving to have us return to the days of Hammurabi of Babylon, some 4,000 years ago. All of the "welfare measures" now being practiced or proposed as great cosmic breakthroughs were tried then, and many times since. And they have always arrived at the same terminus, a nation of serfs dominated by a small clique of ruthless men. How can we fail to note that while hundreds of millions of the impoverished and oppressed throughout the world are yearning to live under our system, we are moving steadily toward that from which they are trying to escape?

There is, without a doubt, a "new look" in America today, but only because we have lost touch with our original principles. The sixty-five years since McKinley have been the period of The Big Change. In foreign affairs we have long since abandoned our nineteenth century policies of non-

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intervention, neutrality, and peaceful trade with all nations. The "new pattern" has been marked by two World Wars, the Korean "police action," and the continuing "Cold War," with our costly involvement in Vietnam and our debilitating foreign aid programs. Domestically, we have witnessed the progressive extension and acceleration of the powers and functions of the central government in Washington and a corresponding weakening of local and state governments.

Government at its several levels now skims off by taxation more than 40 per cent of our total national income. In spite of this, we are steadily increasing our burden of debt. Our Federal debt is at an all-time high and increases each year. In addition, there are hidden obligations accumulated under the social security and government retirement systems, and as guarantees of mortgages and other indebtedness, which amount to hundreds of billions, the total of central government liabilities alone having been estimated recently at one and a half trillion dollars, that is, $1,500 billions, or $7,500 for every man, woman, and child in the nation!

The debts of states, subordinate units of government, and public "authorities," as well as private indebtedness, have kept pace with that of the central government. Our nation is mortgaged to the hilt! And the process continues. Unbalanced national budgets have become a way of life. During the past five years the national budget has averaged an annual deficit of $6.3 billions. Since 1939 inflation has reduced the purchasing power of our dollar to about 43 cents, with commensurate decreases in purchasing power of the peoples' savings accounts, pensions, insurance policies, annuities, and other fixed income investments.

The Moral Issue Involved in Deficit Spending

There is a moral issue of great significance here. Our political forebears believed that no man has a right to deprive his posterity of their God-given rights by voting away their freedom. Thomas Jefferson considered the act of deferring payment on the public debt the same as enslaving future generations. In a letter to a friend he stated:

> There have existed nations, and civilized and learned nations, who have thought that a father had a right to sell his child as a slave in perpetuity; that he could alienate his body and industry conjointly, and . . . his industry separately; and

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consume its fruits himself . . . But we, this age, and in this country especially, are advanced beyond those notions of natural law. We acknowledge that our children are born free; that freedom is the gift of nature and not of him who begot them; that though under our care during infancy, and therefore of necessity under a duly tempered authority, that care is confided to us to be exercised for the preservation and good of the child only; and his labors during youth are given as a retribution for the charges of infancy . . . We believe, or we act as if we believed, that although an individual father cannot alienate the labor of his son, the aggregate body of fathers may alienate the labor of all of their sons, of their posterity, in the aggregate, and oblige them to pay for all the enterprises, just or unjust, profitable or ruinous, into which our vices, our passions, or our personal interests may lead us. But I trust that this proposition needs only to be looked at by an American to be seen in its true point of view, and that we shall all consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Our new "Opulent State," centered in Washington, does not tyrannize, but, in Tocqueville's words, "it compresses, enervates, extinguishes, and stupefies a people." The Federal Republic contemplated by the framers of the Constitution is giving way to a Unitary National State, with symptoms of Empire.

This sixty-five-year-old defection from our fundamental principles has been regularly viewed with alarm. But in spite of sporadic opposition to the trend, the momentum from several sources, some theoretical and some expedient, has yearly pushed us further toward collectivism and statism. Both major political parties now bow to this trend. Each goes along with it, one enthusiastically, the other reluctantly.

Majoritarian Tyranny

I fear that we are drifting into a kind of "democratic despotism" in which the individual is subordinated to undisciplined majorities. The antithesis of majority rule is not minority rule; it is the principle of individual liberty. To secure individual liberty our Constitution places various restraints on majority action. Lincoln spoke of our Republic as "a majority held in restraint by Constitutional checks and limitations." The conviction at the center of our system is that each man has certain inherent rights which it is the duty of government to protect, so that even as a minority of one he has immunities which no numerical majority may invade. No majority has the right, under our system, to impose its religion on any mi-

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nority, or to impair its freedom of utterance or to deprive it of property. But under the new dispensation the majority is almighty! All it has to do is to gain control of government which gives it legal sanction to work its will on the rest of the nation. Majority decision at the polls is an excellent way to choose political administrators, but it is a violation of the moral law for the majority to vote away any part of a man's freedom. The majority may have the power to do this, but the right to this action it never has!

Did the election of Mr. Johnson by the votes of 42 million people, which, after all, is only 38 per cent of those who were eligible to register and vote, confer upon him a mandate to impose his will on all 195 million of our people or, *even on one individual* if, in doing so, he violates that person's Constitutional rights?

Our nation was established as a society of sovereign individuals, each of whom was expected to exercise his freedom under God within the moral law. We considered ourselves to be a nation of "uncommon men," each with freedom to choose his own course of action provided it did not interfere with another's freedom of choice, and each accepting the risk of the wrong choice as the price he must pay for freedom. It was under this system that we made our greatest spiritual, cultural, and economic progress.

But in recent years, many of us have become obsessed with the delusion that there is such a thing as "the common man," and that these "common men" must be herded together by government commissars so that they can be fed, clothed, sheltered, and relieved of responsibility for living! And all this is to be accomplished by computers and automation! America was not built by such fictitious "common men." I choose to believe that there is no such thing as "the common man," except in the eyes of certain politicians. We are all "uncommon men." We built this citadel of freedom with uncommon men. We can save it with the same kind of men. We and countless others like us throughout the nation are the "uncommon men" who will save this "last best hope of earth." Businessmen have shown by their achievements in the rigorously competitive arena of trade and industry that they have the talents to do this if they but have the will!

A Declaration of Rights

What shall be our guide? In my researches I have found none better than that written into the Virginia Declaration of Rights by

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George Mason, in 1776, which reads:

> No free government or the blessings of liberty can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

What were the fundamental principles referred to by Mason? I believe they were, broadly speaking, religious principles; not the doctrines and creeds which distinguish one sect or denomination from another, but rather the fundamental belief in God which they share. It was a basic American principle to maintain a strict separation between Church and State, not because of any hostility to religion; quite the contrary. The State was to be secular in order that the society might be genuinely religious and thus self-disciplined. A free society is possible only if it is composed largely of self-disciplined individuals.

These convictions are visible in both the Declaration of Independence and the Constitution. The framers of those documents believed they were transcribing "the laws of Nature and of Nature's God." The supremacy of the Constitution was believed to stem from its correspondence to a law superior to the will of human rulers.

In effect, the Founding Fathers were trying to set up a secular order based on their idea of the pattern laid down by God for man's conduct in society. And as evidence of their faith in the sanction of "divine Providence" for their actions, they pledged to each other "their lives, their fortunes, and their sacred honor."

Dedication to Principle

Our duty is clear. Let each of us dedicate himself to those fundamental principles bequeathed to us by the Founding Fathers, which served us so well over the years, until we chose to abandon them to follow the Pied Piper of State Absolutism.

Our cue is in the words of the poet Whittier:

> Where's the manly spirit
> Of the true-hearted and the unshackled gone?
> Sons of old freemen, do we but inherit their names alone?
> Is the old Pilgrim spirit quench'd within us?
> Stoops the proud manhood of our souls so low,
> That Mammon's lure or Party's wile can win us to silence now?
> Now, when our land to ruin's brink is verging,
> In God's name let us speak while there is time;
> Now, when the padlocks for our lips are forging,
> Silence is a Crime. ◈

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A FALSE Rx REMEDY

HENRY HAZLITT

THE COUNTRY has been in a mild recession since the fall of last year.

In previous eras not too much concern would have been aroused by a comparable recession (which still leaves the gross national product at new high levels). Some readjustment within particular industries would have been taken for granted. But now, when a thousand doctors nervously take the pulse and temperature of the economy every day, any failure of any index to make a new high record every month causes alarm.

So the government rushes to the rescue. The rescue almost invariably consists of added doses of inflation. The government increases old spending programs and adds new ones. Never mind if government spending has risen in every one of the last eight years and is now at record levels. Never mind if there have been budget deficits in every one of the last seven years. The spending and the deficits must be pushed still higher. Interest rates must be forced down. The supply of money and credit must be increased.

All this is done on the assumption that we cannot have continuous full employment and prosperity without at least a little continuous inflation—and maybe, at times, a big shot of it.

The truth is that inflation is neither necessary for full employment nor sufficient to secure it.

What is necessary is a workable co-ordination of the price system. This entails a co-ordination of wages and prices. Individual wage rates must be at the levels at which the full labor force can be profitably employed. Prices must be high

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enough to keep a profit incentive, but low enough to permit the optimum volume of goods and services to be sold.

Wages and prices are always tending to reach these levels in free markets.

The half-truth in the Keynesian or inflationary theory is that if wages and other costs of production have got too high in relation to final prices, so that profit margins have shrunk or disappeared, an injection of new money or credit into the economy may sometimes raise final prices before it again raises wage rates and so temporarily restore profit incentives and production and employment.

But this kind of prosperity can be kept going only as long as prices and profits can be kept at least one jump ahead of wage rates. It becomes a constant race between the printing press and the demands of the labor unions. It is a race that can only end in gross distortions of income distribution, incentives, and production, in a balance-of-payments crisis, and in falling confidence in the dollar.

This disastrous inflationary race can be prevented only if the government has the will and the wisdom to prevent the continuous imposition of extortionate union wage demands.

This does not mean a wage freeze as in England. It does not mean antistrike legislation. But it does mean the repeal or thorough revision of our present one-sided Federal laws.

It means the removal of the special compulsions put on employers and the special immunities granted to unions. The employer must not be forced to bargain exclusively with one government-certified union. The unions must not continue to enjoy a special license to keep a plant closed by intimidatory mass picketing until their demands are met. The right to strike does not include the right to prevent anybody else from being offered or taking the job that the striker has voluntarily vacated.

Until we restore balanced labor laws, even continuous injections of more money and credit are not going to assure full employment because irresponsible unions will continue disruptive strikes and unreasonable wage demands. ◈

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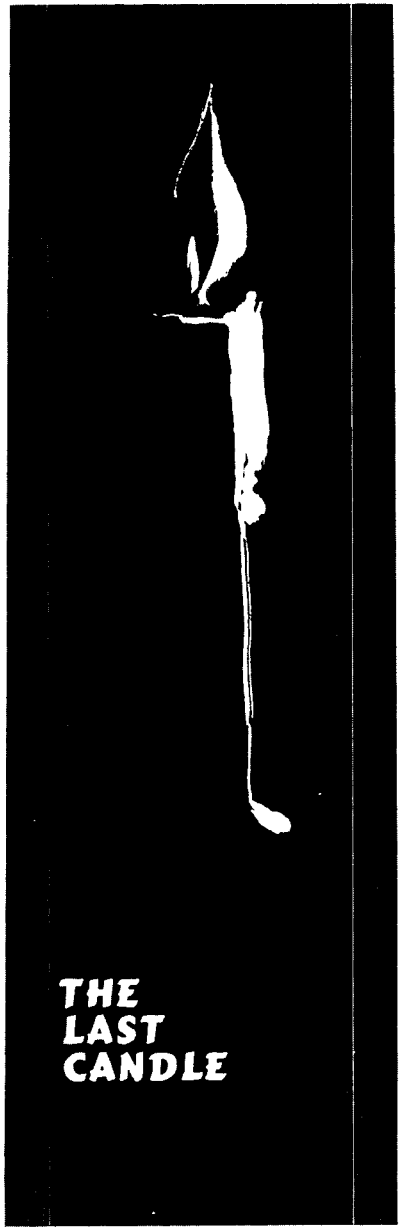

JACK SCHREIBER

HOW MUCH is it worth? How much is your personal freedom worth to you? How much would you be willing to sacrifice today, just to keep your freedom to worship God as you see fit? What price would you pay just to maintain your right to work at the business or profession of your choice; or your right to speak freely without fear of imprisonment? Have you ever stopped to think that men haven't always been this free? Since the beginning of time, most men through the centuries have been slaves or serfs. Personal freedom was granted as a gift by kings, or tyrants, only to a chosen few. Occasionally, history records, there were brief periods of personal freedom, but it finally took America for the world to realize the dream of all men – the inherent right of a man to be free.

We aren't free to do what we want to do, but rather, Jefferson said, we are free to do what we ought to do. In other words, the price of freedom is individual responsibility. So freedom isn't all free, you see, nor is it perpetual. Part of the American dream is that to each generation there falls a new responsibility to preserve

This article is condensed from lecture notes prepared and used by Dr. Schreiber, a physician in Canfield, Ohio.

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that freedom which was established here by those early patriots. But it took more than just a philosophy of government. Those early Americans, wise beyond their years, also realized that government of, by, and for the people had to flourish in an economic system of free enterprise, with competition as the catalyst. So they established a structure of limited central government, permitting this newly won freedom to have unlimited possibilities.

One could assume, then, that we have it made. Never have any people, at any time, anywhere, had it so good. But in our present abundance and luxury something is wrong. People aren't happy. They don't walk down the streets of our cities smiling, or whistling a happy tune. There is discontent, and one can sense fear of the unknown. Overabundant Americans are jittery. There seems to be a tarnish on our golden Mecca. Our welfare lists are growing. We've created a new breed of men who won't work. And instead of the slogan, "God bless America," we now hear, "What have you done for me lately?" The signs aren't too hard to read. They are the signs of internal decay — the dry rot of apathy and indifference.

The symptoms of our disease of welfarism began some years ago when we began to penalize success by taxation. By using our tax dollars, government has relieved us of many of our own personal responsibilities, in exchange for our personal freedom. We have come to think of our early history and the men who made it as a kind of fairy tale instead of the greatest success story of all time. We have been flirting with a dangerous and clever seductive mistress called socialism. And for a time, since the depression days of the thirties, we have been toying with ideas which have proven a failure in most of those countries where they've been tried. It seems to me we are in the mess we're in for several reasons.

From Freedom to Barbarism

The first is the natural evolution of civilization. Lord Byron, in tracing the rise and fall of great nations, said that "people go from freedom to glory, from glory to wealth, from wealth to vice, from vice to corruption, and from corruption to barbarism."

The second reason for the beginning of the welfare state is temptation. We are being tempted as we have never been tempted before — tempted to let the government do it. From all sides of the Great Society comes the siren song. The government should provide free housing; the government should pay for college education;

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the government should take care of the aged; the government should provide beauty and culture; the government should guarantee jobs; and so it goes. It's not an easy thing being a free American, when all around us the misguided and the misinformed tell us the government owes us all these things which up to now we have been providing for ourselves.

There is a third reason why we are losing our freedom. Most of us accept the beginning of the welfare state, not because of our weakness, but rather because of one of our finest virtues — human compassion. Through our misguided love for humanity we have bought the idea that the mere spending of enormous sums of our own money, plus the creation of vast new bureaucracy to process and administer the complexities of the new social laws will, in themselves, solve the ills of the people. By passing the buck and surrendering our personal responsibilities into the hands of government, we solve our guilty consciences as a nation and as individuals.

And finally, we have begun our journey into the welfare state for another reason. For too long now, too many of us have been too willing to let someone else call the shots. We have been busy with things, which in the end don't count for much, and in our madness for materialism we have forgotten how to lead. We have been letting "George do it," and "George" has messed it up. For one shining, glorious moment of history we had the key and the open door and the way was there before us. Men threw off the yoke of centuries and thrust forward along that way with such hope and such brilliance that for a little while we were the light and the inspiration of the world. Now the key has been thrown carelessly aside — the door is closing — we are losing the way.

In summary then, we Americans have inherited the greatest nation in the world, but we're finding out it's not easy being a free American. We need to remind ourselves of the magic formula of free enterprise, operating in an environment of competition with limited central government. We must constantly remind ourselves, and each other, that our freedom is threatened by those who promise us security instead of opportunity. We do not have to go down the drain of the welfare state just because of a silly historic cycle. We can pass on the heritage of personal freedom to our children with the three keys of leadership, personal involvement in public affairs, and a recrudescence of the home and church. This we can do if enough of us will care enough to do enough.

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Freedom, Self-Control, Human Dignity, and Limited Government

Once upon a time there was a young nation struggling in the community of nations to find her place in the sun. For this young country of brave people discovered that freedom is a God-given right. So impressed were they with this belief that they lit a candle to symbolize their freedom. But in their wisdom they knew that the flame could not burn alone, so they lit a second candle to symbolize man's right to govern himself. The third candle was lighted to signify that the rights of the individual were more important than the rights of the state. And finally they lit a fourth candle to show that government should not do for the people those things which people should do for themselves.

As the four candles of freedom burned brightly, the young nation prospered; and as they prospered, they grew fat; and as they grew fat, they got lazy. When they got lazy, they asked the government to do things for them which they had been doing for themselves, and one of the candles went out. As government became bigger, the people became littler and the government became all important and the rights of the individual were sacrificed to the all important rights of the state. Then the second candle went out. In their apathy and indifference they asked someone else to govern them, and someone else did, and the third candle went out.

In the end, more than they wanted freedom, they wanted security, a comfortable life, and they lost all, comfort and security and freedom. For you see when the freedom they wanted most was freedom from responsibility — then Athens ceased to be free, and the Athenians of nearly two thousand years ago were never free again. The last candle was extinguished. ◈

IDEAS ON LIBERTY

Omnipotent Government

THEY [parliaments] possess no power beyond the limits of the trust for the execution of which they were formed. If they contradict this trust, they betray their constituents, and dissolve themselves. All delegated power must be subordinate and limited. If omnipotence can, with any sense, be ascribed to a legislature, it must be lodged where all legislative authority originates, that is, in the PEOPLE. For *their* sakes government is instituted, and theirs is the only real omnipotence.

RICHARD PRICE, *Observations on the Nature of Civil Liberty*, 1776

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GEORGE C. ROCHE III

POWER

2. SOME MODERN MANIFESTATIONS

MAN'S attempted exercise of power over other men is as old as history. Of almost equal age are man's speculations concerning the dangers of power and the means by which it might be limited. Decentralization and a supposition of a framework of Natural Law, limiting ruler and ruled alike, have emerged as man's two best answers to the problem of power.

Yet, in the modern history of power, these traditional safeguards have been confronted with new definitions and new applications of power, posing a greater threat to man than in any of his previous history.

Initially, the coming of democracy was viewed as a final end to entrenched power, as a permanent emasculation of the social agencies and spiritual authorities which were viewed as standing in the path of man's liberty. Once the authority of church, king, and aristocracy were swept away, the reign of all men was to begin. What may well have happened is less an end to power than its transference to new owners.

Hobbes defined political power as political liberty and insisted that man would be free when he possessed a share of political government. Yet the fragmentation

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of political power into bits and pieces at once so numerous and so small, as accomplished in modern democracy, may well have offered an illusory freedom to the individual, since it offered him an essentially illusory sovereignty. As long ago as 1870, Proudhon warned in his *Theory of the Constitutional Movement in the Nineteenth Century:*

> It is no use saying that an elected person or the representative of the people is only the trustee for the people . . . in despite of principle, *the delegate of the sovereign will be the master of the sovereign.* Sovereignty on which a man cannot enter, if I may so put it, is as empty a right as property on which he cannot enter.

The democratic ideal did not originally intend to substitute the arbitrary will of the citizenry for the arbitrary will of the King. But, as Georges Clemenceau wearily observed as he contemplated the condition of democratic Europe in the early twentieth century, ". . . had we expected that these majorities of a day would exercise the same authority as that possessed by our ancient kings, we should but have effected an exchange of tyrants." The fragmentation of sovereignty occurring in mass democracy thus proved a feeble shield for individual liberty.

Both of the traditional guarantees of limited power, *decentralization* and *Natural Law,* had been subverted in the process. Decentralization of power throughout the private, institutional framework of society had been replaced with the comparatively meaningless fragmentation of sovereignty among vast numbers of individuals. The idea of Natural Law, of limitations placed upon ruler and ruled alike, had been replaced by the dangerous and totally incorrect *vox populi, vox dei.* The stage was set for the confusion of the "power of the people" with the "liberty of the people." And the power about to be exercised in the name of the people was destined to make all previous exercises of power throughout history seem pale by comparison.

Sovereignty and Power

As he witnessed the excesses of the French Revolution, Benjamin Constant accurately predicted the disasters to come in his admirable little book, *The Course of Constitutional Politics:*

> The establishment of sovereignty of the people in an unlimited form is to create and play at dice with a measure of Power which is too great in itself and is an evil in whatever hands it is placed.

Throughout the nineteenth century, Tocqueville, von Mohl, Burck-

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hardt, and Acton shared these serious doubts about unlimited democracy. They prophesied that the very democracy which had originally been conceived for the emancipation of the individual could itself become the means of a new enslavement.

A recent television comedy sketch conveys the place of power in the new democratic era perhaps even more effectively than the thoughtful essays of social critics. In the scene, Jackie Gleason and Art Carney are trying to decide which of them will occupy the master bedroom at a hotel they are visiting. Carney delivers a lecture about "democratic processes" and "the American way," prompting a series of votes which, naturally enough, always produce a one-one tie. Carney proposes, "I'll vote for you, if you'll vote for me," again producing the same result. They then decide to flip a coin. Gleason calls "heads," and Carney then challenges Gleason's right to make the choice, insisting, "That's undemocratic."

The comedians exploit the ridiculous situation to its fullest extent, proposing various devices to solve the problem and yet always coming up against Carney's assertion that Gleason's choice of a means to settle the dispute is "undemocratic." Gleason finally loses his temper, and gives the answer which majorities often give in the process of decision making: "See the size of this fist? It's bigger than yours, isn't it? *That's why I get my choice!*"

Reforming Zeal

The current of reform in the eighteenth century which swept away monarchy and promised a brighter day for the common man through democratic processes was quite properly directed against abuses of power by those who operated the political processes of the state. The reforming current was equally correct in its opposition to power when exercised in the private realm through monopoly situations (situations usually stemming from political grants of power by the state).

This reforming zeal began to go astray when it mistook the close connections between the clergy and royal absolutism for a connection between religion and morality on the one hand and political power and exploitation on the other. Bodin and other apologists for Divine Right had so interwoven Natural Law and Divine Right that the reformers rejected moral restraint when they rejected monarchy, thus throwing out the baby with the bath and opening the door to a tremendous centralization of power because they discarded one of the two great bulwarks against

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power, the assumption of a law limiting ruler and ruled alike.

The Decline of Power?

Though power had been distrusted when in the hands of church, monarch, and aristocracy, the reformers came to feel that power could be safely entrusted to the people. Even such a stanch advocate of personal liberty as John Stuart Mill came to believe that power was no longer a decisive factor in politics, since the rule of the people would lead to the equitable solution of all problems through free discussion in a common market place of ideas.

Other nineteenth century advocates of freedom also saw power as a declining force which would no longer trouble the modern world. Reasoning from his organic analogies patterned after Darwinian theories of evolution within the animal kingdom, Herbert Spencer attempted to demonstrate that an abatement of power was to be the natural result of evolution and progress.

The First World War made clear that free discussion and popular sovereignty had, in fact, not done away with power at all. Yet, even then, the reformers were not fully convinced. The rhetoric of the World War I era is filled to overflowing with statements placing blame for that outburst of raw power on a last desperate reaction of the old nondemocratic order. What solutions did the reformers offer for this new outburst of power? More democracy, of course: "Open covenants openly arrived at," "self-determination of peoples," and a League of Nations extending discussion and democracy to a truly international level. Thus, the democracies put on the greatest display of raw power exercised until that moment in history, in the name of "making the world safe for democracy."

It might be argued that a monarchical Germany started the war, not the Western democracies. Yet even if such a thesis could be demonstrated (and the facts would indicate that all the major nations, democracies and monarchies alike, played their part in bringing on the war) it would still be true that even the most democratic of Western nations soon came to copy the Prussian methods of mobilizing the private sector and the individual citizen for "total" war efforts. Even in England and the United States, the two nations in which the individual citizen had been most successful in preserving his liberty against the encroachment of governmental power, conscription became the means of providing an army, while great pressures of borrowing and inflation, amounting to a

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form of economic conscription, provided the war chest.

Preservation of Democracy

The "good cause" justifying this extension of power was the preservation of "democracy" itself. Under the new democratic regimes, the warfare state pointed the way toward the welfare state, since both were to give endless and often irresponsible power to the few while degrading the many, all in the name of an abstract equality of men. Oddly enough, this "equality" is only to be achieved, its proponents tell us, through a tremendous inequality in the exercise of power, giving some men the right to act for others.

If the First World War had only shaken the dogma that democracy meant an end to the dangers of power, the Second World War ended such a notion once and for all. Since the late 1930's, we have seen the unrestricted play of power on our society and the world, limited effectively by neither political theory nor moral principle. The traditional safeguards of *decentralization* and *Natural Law* have both been undercut by democracy, only to have democracy itself provide a fertile field for the most unchecked reign of power in world history. Apparently Lord Acton was right about the corrupting capabilities of power. Surely, Hitler and his gang should be sufficient proof of that fact.

For a time, some of the reformers still argued that such power was not harmful so long as it worked toward "humanitarian" goals. We all remember the years when the totalitarian regime of Stalin was viewed by many in the West as being somehow morally superior to the totalitarian regime of Hitler. But, in practice, the Poles, Latvians, Lithuanians, Estonians, and any number of other subject peoples surely could point to no distinguishing characteristics between the Red totalitarianism and the Brown.

The Warfare State

Meanwhile, how did power fare in those Western democracies which prided themselves on being most nontotalitarian? In the words of one of the most distinguished students of power:

> Whereas the Capetian kings made war with a few seignorial contingents whose service was for no more than forty days, the popular states of today have power to call to the colours, and keep there indefinitely, the entire male population. Whereas the feudal monarchs could nourish hostilities only with the resources of their own domains, their successors have at their disposal the entire national income. The citizens of medieval cities at war could, if they were

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not too near to the actual theatre of operations, take no notice of it. Nowadays friend and foe alike would burn their houses, slaughter their families, and measure their own doughty deeds in ravaged acres. Even Thought herself, in former times contemptuous of these brawls, has now been roped in by devotees of conquest to proclaim the civilizing virtues of gangsters and incendiaries.

How is it possible not to see in this stupendous degradation of our civilization the fruits of state absolutism? Everything is thrown into war because Power disposes of everything.[1]

The Welfare State

So much for the modern warfare state. What of the modern welfare state? The same era which saw the rise of democratic reformism in the eighteenth and nineteenth centuries also saw the widespread acceptance of the principles of natural science and the unfortunate accompanying tendency to apply the methodology of science in the political and social realms. In the nineteenth century, Auguste Comte remarked, "If we do not allow free thinking in chemistry or biology, why should we allow it in morals or politics?" Fichte carried that assumption to its logical conclusion: "To compel man to adopt the right form of government, to impose Right on them by force, is not only the right, but the sacred duty of every man who has both the insight and the power to do so." This assumption lies at the root of the subsequent "social planning" which has come to dominate modern society. Men are now to be made free from their own ignorance and inadequacy. Power used to coerce is thus supposed to be beneficent power, power exercised "for the good" of the many.

Throughout history, the greatest vice of power had generally been thought to be the restriction of individual liberty which the exercise of such power entailed. But once modern man began to recognize no restriction of Natural Law upon his capability to know what is "best" for people and know it better than the individual citizen himself, the modern statist was in a position —

> . . . to ignore the actual wishes of men or societies, to bully, oppress, torture them in the name, and on behalf of their "real" selves, in the secure knowledge that whatever is the true goal of man (happiness, fulfilment of duty, wisdom, a just society, self-fulfilment) must be identical with his *freedom* — the free choice of his "true," albeit submerged and inarticulate, self.[2]

[1] Bertrand de Jouvenel, *On Power* (New York: Viking Press, 1949), p. 152.

[2] Isaiah Berlin, *Two Concepts of Liberty* (London: Oxford University Press, 1958), p. 18.

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The Planning State

In such a system, what limitation of power is now to be recognized? What is to be the basis of the new political morality? As John Dewey, a philosopher of the new humanitarian planned society, phrased it, "Whether [the use of force] is justifiable or not . . . is, in substance, a question of efficiency (including economy) of means in the accomplishing of ends. . . . The criterion of value lies in the relative efficiency and economy of the expenditure of force as a means to an end."[3] In a word, all the traditional safeguards against power are now to be discounted in favor of a single measure: utility.

In a textbook entitled *Our Economic Society and Its Problems*, one of the planners of the new order, Rexford G. Tugwell, explicity stated the new definition of power:

> The real challenge to America . . . is the challenge of the planning idea. Russia has silenced forever the notion that economic affairs are governed by adamant natural laws. She has demonstrated that men have it in their power to set up the system they want and to make it obedient to their wishes.
>
> With Russia as an example, intelligent people in America . . . will want to plan and act.

[3] John Dewey, "Force and Coercion," *Ethics XXVI* (1916), pp. 362 and 364.

A New Definition of Freedom

As Friedrich Hayek has made abundantly clear, it is only modern man that has confused freedom from coercion (the traditional use of the word) with an illusory freedom from obstacles, implying a physical ability of man to be in complete control of and beyond the limitations of his natural environment. In this way, individual freedom has been corrupted until it implies a "right" to any material benefit which the social order can procure for him.

Hayek continues:

> Once this identification of freedom with power is admitted, there is no limit to the sophisms by which the attractions of the word "liberty" can be used to support measures which destroy individual liberty, no end to the tricks by which people can be exhorted in the name of liberty to give up their liberty. It has been with the help of this equivocation that the notion of collective power over circumstances has been substituted for that of individual liberty and that in totalitarian states liberty has been suppressed in the name of liberty. . . .
>
> This reinterpretation of liberty is particularly ominous because it has penetrated deeply into the usage of some of the countries where, in fact, individual freedom is still largely preserved. In the United States it has come to be widely accepted as the foundation for the political phi-

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losophy dominant in "liberal" circles. Such recognized intellectual leaders of the "progressives" as J. R. Commons and John Dewey have spread an ideology in which "liberty is power, effective power to do specific things" and the "demand of liberty is the demand for power," while the absence of coercion is merely "the negative side of freedom" and "is to be prized only as a means to Freedom which is power."[4]

Power = More Power

It is instructive that the great proletarian revolutions of modern times, those in France and Russia, both promised a revolt *against* power. Shortly before assuming authority, Lenin wrote that it was the task of the Revolution to "concentrate all its forces against the might of the state; its task is not to improve the governmental machine but *to destroy it and blot it out.*" The revolutionaries acting in the name of the people have moved against power with the avowed purpose not of assuming that power but of *destroying* it. Despite this, those who assumed temporary power to destroy other concentrations of power have usually proven unwilling to relinquish that authority once the revolutionary process is brought to completion.

Before the rapids, there was the rule of a Charles I, a Louis XVI, a Nicholas II. After them, that of a Cromwell, a Napoleon, a Stalin. Such are the masters to whom the peoples that rose against Stuart or Bourbon or Romanov "tyranny" find themselves subjected next. . . . The Cromwells and Stalins are no fortuitous consequence, no accidental happening, of the revolutionary tempest. Rather they are its predestined goal, towards which the entire upheaval was moving inevitably; the cycle began with the downfall of an inadequate Power only to close with the consolidation of a more absolute Power.[5]

In both the nontotalitarian Western world and in the more frankly totalitarian experiments, the same pattern holds true. The initial assault against power is followed by a more complete and all-pervasive power structure of its own. The danger of such structures is all the more enhanced by the fact that such despotisms are erected in the name of "the people."

In the words of Henry Mencken:

> It [the State] has taken on a vast mass of new duties and responsibilities; it has spread out its powers until they penetrate to every act of the citizen, however secret; it has begun to throw around its operations the high dignity and impeccability of a State religion; its agents become a

[4] F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago, 1960), pp. 16-17.

[5] Jouvenel, *op. cit.*, p. 216.

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separate and superior caste, with authority to bind and loose, and their thumbs in every pot. But it still remains, as it was in the beginning, the common enemy of all well-disposed, industrious and decent men.[6]

The Modern State

If the modern state has indeed become so all-pervasive in its exercise of power, why is there not more organized resistance? It is the pretext that such power is wielded by and for "the people" which in effect has delivered the people, the individual citizens, into the hands of this new despotic power.

This power now exercised in the name of "the people" whether in the welfare state pattern or the frankly totalitarian form, is tremendous in scope. Worse yet, such power tends naturally to accumulate still more power to itself. An Italian scholar who witnessed the rise of the fascist state in Europe, Guglielmo Ferrero, has made the shrewd observation that a government of great power tends to suspect that the citizens being governed would like to throw off the yoke which they bear. It is Ferrero's thesis that this fear of the government against the governed, thus engendered, tends to rise to a greater and greater level as more power is exercised – thus the more totalitarian a government, the more dictatorial, oppressive, and brutal it is likely to become.

Thus power breeds appetite for more power, until not only obedience, but enthusiasm, is expected from the subjects of that power. It was Napoleon who first made wide use of deliberately contrived propaganda techniques to win enthusiasm for the regime in power. Since then, virtually every wielder of great power has further perfected the same technique. "Public image," a desire to be at once powerful and popular, seems to be a common goal in such societies. Often the pursuit of this goal has produced suppression of facts which might prove unpopular. We have all come to expect such suppression from the modern totalitarian state. We are also now learning that a "credibility gap" can exist in our own society as well.

Thus, the powerful state comes to fear the subjects over whom it exercises power, while the individual citizen comes to fear the increasing repressions and interferences of the all-powerful state. It is to this that Ferrero refers:

> It is impossible to inspire fear in men without ending up by fearing them: from this moral law springs

[6] Albert Jay Nock, *Our Enemy, the State* (Caldwell, Idaho: Caxton, 1946), flyleaf.

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the most fearful torment of life — the reciprocal fear between government and its subjects.[7]

The root of this fear in both the governing and the governed is the fear of power, rampant and unchained from Western civilization's traditional limitations of power, *decentralization* and *Natural Law*. Power in such a society is finally embraced because of its capacity to produce discipline. The exercise of power thus becomes an end in itself, rather than a means.

Finally, under whatever political label, a new agency has come into being in the modern world:

Throughout the world, a new revolutionary theory and system seem to be taking substance: what Tocqueville predicted long ago as "democratic despotism," but harsher than he expected even that tyranny to be; in some sense, what Mr. James Burnham calls "the managerial revolution"; super-bureaucracy, arrogating to itself functions that cannot properly appertain to the bureau or the cabinet; the planned economy, encompassing not merely the economy proper, however, but the whole moral and intellectual range of human activities; the grand form of *Plannwirtschaft*, state planning for its own sake, state socialism devoid of the sentimental aims which originally characterized socialism.[8] ◈

[7] Guglielmo Ferrero, *The Principles of Power* (New York: G. P. Putnam's Sons, 1942), p. 313.

[8] Russell Kirk, *The Conservative Mind* (Chicago: Henry Regnery, 1953), p. 533.

Dr. Roche, who has taught history and philosophy at the Colorado School of Mines, now is a member of the staff of the Foundation for Economic Education.

The next article in this series will discuss the "Social Effects" of Power.

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LABOR UNION DEMANDS MEAN MORE INFLATION

LAWRENCE FERTIG

BY a 5 to 4 decision in mid-April the United States Supreme Court nudged our economy back toward the era of handwritten ledgers and the hand loom. This, in an age of computers and high-speed cost-cutting machines!

The learned Justices decided that labor unions have a right to strike over automation. Some building contractors in Pennsylvania tried to cut the cost of modestly priced homes by installing 3,600 prefabricated doors. The carpenters struck because they wanted to construct these doors by hand on the site. The Court's decision in this and a companion case upheld the strikers because of the "employer's efforts to abolish their jobs."

If United States industry must protect specific jobs at whatever cost, instead of trying to serve the American public by adopting improved methods of production which lower costs and prices, the vaunted dynamism of the United States would, obviously, be destroyed.

Because of automation American industry is absorbing more than 1.5 million new workers each year. *Because of automation* pay of the average factory worker has increased to $110.00 per week from the prewar wage of $21.00 per week. If strictly applied, the High Court's decision would, of course, curb this progress. This decision is just one more straw on the back of a heavily laden camel. That camel is the American productive machine – American industry. American industry today – and therefore the nation – faces a crisis. The nature of that crisis is quite simple.

Labor unions are striking for higher pay. Unions in transport, rubber, automobiles, and other major industries threaten to paralyze production. Disturbing as this prospect is, production shutdowns due to strikes are *not* the real threat to the economy. The real danger is uneconomic wage

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Mr. Fertig is an economic columnist. This article appears by permission of Columbia Features, Inc.

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settlements wrung from reluctant industry in order to prevent work stoppage.

The nub of the problem is that wage costs are rising at the rate of 5 per cent to 7 per cent annually, while productivity of American industry is not increasing by more than half that amount. When costs increase at nearly double the rate of industry productivity, there is bound to be trouble. In the first quarter this year, the median wage increases in 520 wage agreements was nearly 13 cents an hour — a twenty-year high.

When costs out-race productivity, the result is a squeeze on profits. As profits decline, industrial activity is curbed, jobs are affected, and so is capital investment for more efficient, increased production. All this adversely affects industry growth and national income.

To off-set these depressing effects, it has been the practice of our monetary authorities to inflate the money supply by encouraging plentiful, low-cost bank loans. This tends to create accelerated business activity. But, as in 1965, such a policy results in sharply higher consumer prices and an inflationary spiral that is dangerous for the economy in the long run. So, the basic problem is how to prevent steep wage rises which are brought about by the monopoly power of labor unions.

The labor union problem is worrying both the Administration and Congress these days. On the one hand, there is threat of crippling national strikes. On the other, unions defy Presidential commissions which recommend even as high as 5 per cent annual wage rises. There are literally dozens of plans for meeting this problem now being discussed in Washington.

Practically every solution now being proposed embodies some form of compulsory arbitration. Big government is to step in with the big stick and enforce wage decisions on management, as well as on unions. The point is that all these plans evade the central problem. There would be no need for more government action if present monopolistic powers of unions were curbed.

A better balance between the power of labor unions and the power of management is the direction in which a solution should be made. But, neither the Congress nor the President has a stomach for curbing the overweening power of labor unions today. This being the case, continued inflation seems to be inevitable. ◈

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THE NEW FEUDALISM

CLARENCE B. CARSON

MOST AMERICANS who are bent toward socialism do not identify themselves publicly as socialists. Nor do they employ the Marxian slogan that socialism is the wave of the future. Nonetheless, they have a way of looking at things that embraces the idea. The American approach to socialism is gradualist, piecemeal, and step by step; it is by way of government intervention, government-provided welfare programs, and government regulation and control. These steps are called progressive, are said to be in keeping with the contemporary situation and modern needs, and are supposed to be pointed toward a brighter future. Those who oppose these steps are called reactionary, conservative, backward-looking, opponents of progress, not of this century, and so on.

The first thing to be observed about all this is that there is no such thing as socialism, actually or potentially. Socialism is a fantasy, and the illusion that it is being approached is in the nature of a mirage. No country in the world has attained even an approximation of the socialist vision. In communist countries, the state has not withered away, as Marx predicted; instead, it has grown in power and sway. Nowhere does "from each according to his ability, to each according to his need" prevail, nor can it do so. "Need" can no more be measured than men can be induced to produce according to their abilities when rewards are separated from efforts.

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Nor is it simply that the actual falls short of the ideal, a development which might be expected where human beings are involved. On the contrary, the movement toward what is supposed to be socialism produces results quite the opposite of those claimed for it.

Everywhere the results of the thrust toward socialism are similar in kind, though different in degree, depending upon the approach and the zeal behind the effort. The results are, in brief, statism, bureaucratic autocracy, neofeudalism, and neomercantilism.

Government as a Means

The development of statism — the totalizing of government power over the lives of citizens and the veneration of the organ in which the power resides — is both obvious and readily explained. Anyone can see that governments everywhere exercise more and more power and that those who wield the power command subordination and obedience. The state does not wither away because it has been made into the instrument through which socialism is to be attained. Socialists were always vague as to just how socialism was to be achieved. They could describe in detail the evils of the existing systems and the marvels that would be under socialism. The how of reconstruction was the missing link of socialist theory. To Marx the emergence of socialism was inevitable; one need not trouble himself overmuch about precisely how the inevitable would come to pass. The main thing was the destruction of the existing system.

In practice, however, socialists have taken over and used the state when and as they have come to power. They have used it to do all sorts of things to usher in socialism, thus building tremendously the power of the state. To remain in power, they have found it useful to cultivate the adoration and veneration of the state. In like manner, they took over bureaucracies, greatly enlarged them, and equipped bureaucrats with a great deal of power with which to achieve their ends. It is these bureaucrats who wield the power over the lives and intricate affairs of citizens. The result is, predictably and demonstrably, bureaucratic autocracy, implicitly tyrannical, but in practice more often aggravating because of its pettiness and triviality. Even so, the tyranny of the Soviet Union, of Communist China, and of all socialist (or socialist inclined) countries is, in the final analysis, the tyranny of bureaucrats.

Neither statism nor bureaucratic autocracy are anything new under the sun. If progress be

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synonymous with improvement, there is nothing progressive about them. They are an expansion, consolidation, and rigidifying of forms and institutions that have been around for quite a while. The other two products of the thrust to socialism are plainly retrogressive, that is, are revivals of older forms and institutions in a new setting. The new mercantilism is not the subject of this paper; it will, therefore, be dismissed with only a few observations about it. Mercantilism was widely practiced in the seventeenth and eighteenth centuries, and, at its lowest ebb, never quite disappeared in the nineteenth century. It was a system of attempting to promote national prosperity by government intervention. Particularly, it was an effort to promote manufacturing and shipping by government-granted privileges, export and import controls, payment of bounties, and restriction upon trade. Many of these practices have been revived in the twentieth century, extended, and given new justifications. They can be referred to as the new mercantilism.

Inevitable Developments

The reversion to mercantilism in the twentieth century has been noted by some, but the new feudalism has been paid scant attention, if any. Mercantilism was an instrument more or less ready at hand for socialists, as were the state and the bureaucracy. Socialists no more started out to be mercantilists than they did to be statists or bureaucrats. The positions developed as a result of adapting devices which were supposedly means to an end, but which swiftly became ends in themselves. In the circumstances in which they have come to power, socialists have attempted to develop *national* economies. To do this, they have fallen unavoidably into mercantilistic practices, which had a similar aim.

The new feudalism has a somewhat different explanation. After all, feudalism is correctly associated with that most reprobated and despised of appellations, Medieval. Medieval is the very antithesis of modern. It is associated in almost everyone's mind with backwardness, with darkness, with things alien to modern man, whether these associations are justified or not. Mercantilism has its apologists.[1] One writer even attempts to make the new mercantilism alluring. He says, in part:

> Abundance will enable a reversal of the old order of things. Modern

[1] See, for example, Oliver M. Dickerson, "Were the Navigation Acts Oppressive?" in *The Making of American History*, Donald Sheehan, ed., (New York: Holt, Rinehart and Winston, 1963, third edition), I, 57-86.

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mercantilism will remove the economic machine from the middle of the landscape to one side, where, under planning by inducement, its ever more efficient automata will provide the goods and services required by the general welfare. . . .

This is the promise of modern mercantilism, and if the time is not yet, it is yet a time worth striving for.[2]

Feudalism has no such apologists. Yet what we are developing is much more closely akin to feudalism than to mercantilism and much more deeply entwined with the premises of those who think of themselves as socialists.

Of French Design

Socialist doctrines were formulated mainly in the first half of the nineteenth century, in the wake of the final destruction of the vestiges of feudalism which had occurred during the French Revolution. They were shaped by Frenchmen more than by any other nationals, by Auguste Comte, by Henri Saint-Simon, by Louis-Auguste Blanqui, by Charles Fourier, and by others. The French were assisted by others, of course, by the Scotchman Robert Dale Owen, by the Germans Karl Marx and Friedrich Engels, among others.

[2] W. H. Ferry, "Caught on the Horn of Plenty," *The Corporation Take-over*, Andrew Hacker, ed. (New York: Harper & Row, 1964), p. 187.

At any rate, socialist doctrines were permeated from the outset with notions drawn from feudalism. Socialism was born (or reborn) amidst the conservatism of the restoration following the French Revolution and the romanticism of the nineteenth century. Both of these were friendly, in varying degrees, to feudalism, or its relics. Some romantics wrote lovingly and favorably of the Middle Ages. For example, there were the very popular novels of Sir Walter Scott in English.

Most important, however, both romantics and/or socialists were anti-industrial. The new snake in the Garden of Eden was industrialization, and man had been cast out into what came to be called the Industrial Revolution. Most of men's woes, real or imagined, were attributed to industrialization, a term synonymous with the horrors of the factory town, with little children laboring at spindles, with women drawn from the home into the mills, with men spending long hours in mines, with exploitation and alienation. By comparison with industrialization and its machines, its factories, its mines, its industrial proletariat, the preceding ages were often thought of as exemplifying pastoral bliss.

Those who stick to economic analysis pass over one of the deepest appeals of socialism. It can be

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shown rather conclusively that men worked long hours at hard and unmitigated labor before the development of large-scale manufacturing carried on in factories, that small children had worked from time immemorial, that deprivation was much greater in pre-industrial times, that far from decreasing well-being, industrialization generally contributed to the improvement of it.

The Alienation Theory According to Marx

But the socialist appeal goes much deeper than this to something rather fundamental. Socialists claim that industrialization came in a way that dissolved the bonds of community. Modern man is alienated, said Karl Marx, and by so doing he gave a name to that phenomenon supposed to result from private ownership of the means of production, from capitalism, from industrialization, from the loss of community. The factory drew men from their ancestral homes to live in factory towns where they were "alienated" from the products of their labor by the "cash nexus." It pitted them one against the other for jobs and wages thus promoting individualism. Competition, so socialists have held, is the war of each against all, and private property is the booty gained in the contest.

There have been two models for the community which socialists are supposed to be seeking, one historical and the other imaginative. The historical model for community is found in the Middle Ages, in the medieval manor (or mir in Russia), in the medieval guild, university, universal church, and so on. The other model is in the never-never land of utopia, that is, by translation, in the land that is "nowhere." Marx attempted to give reality to utopia by making it historically inevitable. Other socialists were utopian, according to Marx; his socialism was "scientific," scientific because its outlines were supposed to emerge from the projection of trends already discernible. In other words, one is no longer utopian when his utopia ceases to be a product of the imagination and becomes a prophecy of the shape of the future.

Marx knew no more about how to form viable communities than did those "utopians" whom he denounced in the nineteenth century for their futile efforts at erecting utopian communities. He did succeed, however, in turning men's eyes away from the real source of their notion of community to the mumbo-jumbo of false prophecy supposedly based upon an extrapolation of history. This enabled socialists to obscure from themselves and others the medieval

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sources of their idea of community.

My point is this: It is not accidental that the thrust toward what is supposed to be socialism produces the New Feudalism. This does not mean that socialists have wanted to revive feudalism. By and large, they have been in the ranks of those most eager to pillory the medieval. Nor does it mean that they have succeeded in establishing a feudal order comparable to the one in the Middle Ages. My remarks do not have to do with the *intent* of socialists but rather with the tendency of their action. In their efforts to recover what they supposed was a lost community, they have been drawn to favor practices which are medieval in character. These are, after all, the ones which prevailed generally before modern man became "alienated." They are the pre-industrial, pre-individualistic, pre-cash nexus ways of dealing with things. Socialist inventiveness has, to an amazing extent, been reconstruction of abstractions from the vaguely recalled Middle Ages.

Corporatism

The essence of medieval social organization was corporatism. According to Jakob Burckhardt, in the Middle Ages "man was conscious of himself only as a member of a race, people, family, or corporation – only through some general category."[3] These corporations, bodies, or organizations – guild, manor, college, town, monastic order – provided the framework within which men had their prerogatives, privileges, duties, obligations, and responsibilities. A man, simply as a man, could be said to have hardly any rights. These belonged to him in his capacity as a member of an organization, as a knight, as a burgher, as a priest, and so on.

The New Feudalism does not, of course, resemble the old feudalism in detail generally; the similarity is essential. Modern socialists have not revived the outward trappings of monasticism, have not established lords of the manor who defend their possessions with sword and shield, and have not permitted a religious hierarchy to rule over a certain area of life. It should be obvious that it is not in such matters that feudalism has been revived. In at least two essentials, also, the New Feudalism is unlike the old: positions are not inherited generally, and powers are concentrated and unchecked rather than divided and balanced against one another. Otherwise, though, there are amazing simi-

[3] Jakob Burckhardt, *The Civilization of the Renaissance in Italy* (New York: Modern Library, 1954), p. 100.

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larities in essence between the new and the old.

In the United States, which concerns us here, the New Feudalism is corporate in a manner similar to the old. The thrust is for men to be compulsory members of some body, and to have their prerogatives as members of that organization. The most obvious example of modern corporatism is the labor union. There have been extensive efforts to establish, in effect, compulsory labor union membership, to fix men in their jobs by seniority "rights," to grant certain privileges to those who are members of the union, e. g., the "right" to strike, and to provide benefits such as insurance and retirement. Farmer unions differ in detail from labor unions, but they, too, are corporate in character. The contemporary university, with its hierarchy, the tenure of its faculty, and claims to special privileges for its members, e. g., academic freedom, comes more and more to resemble its medieval counterpart.

Organizations become feudal in character as they are established and maintained by government power, as they have a special legal standing, as the members have special immunities and privileges and are subject to government control of their affairs. The opposite type to a medieval corporation is a voluntary organization. The latter organization would exist at the behest of its members, would enjoy no advantages at law not possessed by individuals, and would be subject to no restrictions other than those generally applying to individuals. Thus, a labor union is called a feudal organization because it is interfused with the power of government, may, in effect, act as a government, i. e., use force to attain its ends. If it had no special legal standing, it would only be a voluntary organization and would not merit being referred to as feudal.

Modern Feudal Forms

Many organizations in America are being made feudal in character which did not start out that way. Thus, almost all religious and charitable organizations were voluntary in their inception. They have benefited, however, from special immunities, particularly taxation, and pressure grows for bringing them under government control in many ways. As a matter of fact, foundations are already heavily restricted in their activities by government. Those bodies which we call corporations are apparently on the threshold of being thoroughly feudalized. Limited liability corporations had the special immunity of limited liability from the beginning. This served

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as justification, or excuse, for government regulation and intervention in their affairs. The stock issues of corporations fall under government regulation. Some corporations, those denominated public utilities, are vigorously controlled. Antitrust legislation is used quite often as a weapon to manipulate corporations. Government contracts serve as inducements to corporations to obey the wishes of governing power.

By and large, business corporations are not yet themselves subgovernments, but there have been proposals since the time of Theodore Roosevelt to make them organs of government. (For a brief period under the N.R.A. in the 1930's corporations did assume governmental powers, or government acted through them, which amounts to the same thing.) Intellectuals are, once again, proposing similar and more thorough action. This proposal was made in a recent book:

> The center of my suggestion is that corporations be reconstituted as made of people. The associational element has been lost to sight in most modern corporations. This is almost as true of colleges and universities as it is of business corporations, and has led to fuzziness of purpose, an incredible metaphysics of corporations, and meaningless growth.
>
> More specifically this would mean first the creation of a corporate constituency or constituencies consisting of all those who had long-term and significant interests in the corporation. Just how one would balance securities holders, workers, managers, suppliers, clients is not easy to discern, but they should all be in somehow. Secondly, in accordance with Western political practice, there should be a separation of legislative and executive instead of the merger or identification of the two. . . . Finally, it should be acknowledged that corporations, consisting of a lot of people, must have an internal law and proper courts to administer it.[4]

The language of the above is vague, or fuzzy, but the meaning is sufficiently clear for us to conclude that he is proposing that corporations be made into governments. If all those who are associated with corporations in one way or another were treated as members of a political body, a long step would have been made toward feudalizing America. Another writer in the same book suggests the universalizing in America of group power. "It is now time for constitutional theorists to recognize," he says, "an entity intermediate between the individual and the state. This is the group . . . the wielder of effective control over large parts of the American

[4] R. W. Boyden, "The Breakdown of Corporations," Hacker, *op. cit.*, p. 60.

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power system."[5] In short, we should stop pussyfooting around and establish a full-fledged feudal system.

Property Rights

Individuals in the Middle Ages did not own real property. They held it in trust for their family, present and future. But families did not own property, either. Even the lowly serf quite often had a legal claim to his habitation upon the manor, and the lord of the manor had the land as a fief from his overlord. These grants were traceable backward, in theory, to the king, whose lands they really were.

The gradual thrust to socialism in America is producing a situation similar to that of feudal times. Individuals continue to hold title to property in our day, but it is subjected to an increasing variety of restrictions as to its use, to building codes, to area development plans, to crop restrictions, to zoning laws, and so on. Government does not claim that it owns all the land, only that it may exercise the powers of an owner over it. We approach the point where government commissioners of one sort or another might well be called overlords without straining the imagination. Surely, the best theoretical justification for contemporary taxing policies would be that what we are able to keep of the fruits of our labor is a fief granted us by government.

Actually, our property is increasingly taken from us by taxation and returned to us, or others, as services which may be called boons, fiefs, or special privileges. The process is somewhat analogous to what some historians believe occurred in the very early Middle Ages. It is thought that small landowners quite often turned over their lands voluntarily to lords who would provide them protection. The lord, in turn, gave the use of the lands back to the former owner. In the intervening Dark Ages, as memory faded and conquest followed conquest, it came to be held that the king was the original owner. If another Dark Ages now looms before us, it is quite probable that our descendants will believe that the state is the original benefactor and owner. Indeed, our children are already being taught such doctrines.

Institutional Similarities

There are many parallels between the Middle Ages and present developments and tendencies. In feudal times, there were different courts and different laws

[5] Arthur S. Miller, "Private Governments and the Constitution," *ibid.*, p. 131.

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governing the various bodies, classes, and orders. There were courts for the nobility, for the clergy, for townsmen, for guilds, and for such things as trading fairs. These have their modern counterparts: the numerous boards and commissions with their special rules (with the effect of law) and their court proceedings. There is the Interstate Commerce Commission with its regulations and its hearings, the National Labor Relations Board with its investigations and its rulings, the Securities and Exchange Commission with its rulings and supervision, and so on. Men in the Middle Ages would not have considered such organizations nearly so strange as would our great great grandfathers.

Before the development of common law in some places in the later Middle Ages, it was not unusual for the law to prescribe different penalties for the same offense, depending upon the status of the person against whom the offense was committed. Money payments were frequently exacted instead of the life of the offender. William Stubbs said, regarding England, "This differed according to a regular table of values. The life of a king was esteemed at 7,200 shillings, that of . . . the archbishop at 3,600, that of a bishop or ealdorman at 1,200 shillings, that of an inferior thane at 600, that of a simple ceorl at 200. There were other valuations for Britons and slaves."[6]

There are signs that we are about ready to follow this early medieval pattern. Several state legislatures have been or are considering legislation to abolish capital punishment except for murderers of certain persons, as Presidents or governors and policemen. True, such an enactment would be a long way from a table of values that would set penalties according to our "value to society," but it would certainly be a step in that medieval direction. That such things are seriously proposed and that the proponents are not called crackpots indicates that we are already prepared to think in such terms to some extent.

Other parallels can only be suggested here. The Middle Ages had its just price and just wage. We have minimum wages and "fair" prices. The Middle Ages had its manor. We have co-operatives with their special immunities and privileges, reincarnations of the manor. The Middle Ages had its Children's Crusade; we have the Peace Corps. The Middle Ages had craft guilds; we have labor unions.

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[6] Norman F. Cantor, ed., *William Stubbs on the English Constitution* (New York: Crowell, 1966), p. 32.

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Many substitutions have been made, of course. The state has replaced the king, ideology replaced religion, the Supreme Court replaced the College of Cardinals, the bureaucracy replaced the nobility, the intellectuals (scientists) replaced the clergy, the civil servant replaced the knight, and so forth. Our situation is much more diverse than theirs, however; the relationships to institutions from one age to another is not one to one, nor is the New Feudalism as solidly established in America as was the old feudalism in England in the twelfth century. Part of the New Feudalism is maintained by law now, but much of it is present only in suggestive tendency.

Checks and Balances

The old feudalism contained a principle important for the containment of government power and the protection of the rights and privileges of inhabitants. That principle we know as dispersion of power and checks and balances. Medieval organizations were often centers of power which could check and offset other centers of power. Churchmen and nobles contested with kings and emperors to limit their exercise of power. Townsmen got charters from kings to free them from interference by the nobility. Separate courts largely freed the members of a class from the power of other organizations.

The Founders of these United States incorporated this vital principle in the Constitution. They separated, dispersed, and balanced powers. They were not, however, reviving feudalism when they did this. They were using a feature, probably partially derived from the Middle Ages, to accomplish somewhat different ends. They did want to limit power, of course, but they did not want empowered classes and orders of men. They substituted geographical dispersion for classes. Governmental jurisdiction was balanced by another governmental jurisdiction (national and state), and branch of government was arrayed against branch of government to inhibit and contain the exercise of power. Americans eventually sloughed off not only classes and orders but also that personal servitude which was at the heart of feudalism.

The thrust to socialism has been made at the expense of these arrangements. Power has been increasingly concentrated in America, and in every other land with a movement toward what is billed as socialism; the states are no longer centers of power which can effectively protect their inhabitants from the exercise of Federal

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power. Within the central government, power has been further concentrated in the executive branch, and that jealousy of the branches for their prerogatives no longer serves effectively to inhibit power.

Crushing the Opposition

Superficially, it would appear that the New Feudalism is providing new centers of power to counter those of the Federal government. A closer look, however, will show that this has not generally been the case thus far and raise serious doubts as to that's being its future course of development. The organizations which signalize the New Feudalism — labor unions, farmer organizations, corporations, civil rights groups, and so on — are not exercising powers formerly exercised by government. Instead, they exercise (or would exercise in the case of those not fully developed) power in addition to that exercised by formal government bodies. Their power is gained not at the expense of the Federal government but by the loss of the control of their affairs by the citizenry.

Moreover, these organizations exist at the behest and pleasure of the constituted governments. They have no distinct and independent sources of authority. Their courts do not exempt them from the regular court system. These organizations have served, thus far, to extend government-like power into more and more areas of life. They are largely under the control of the Federal government. When they come into conflict with the Federal government, or contest the general ideological aims of those in power, they will most likely be subdued or crushed. They have no separate source of authority which would enable them to withstand the determination of the Federal government.

In the eschatology of socialism, the New Feudalism is largely a means to an end. The end is not socialism, however, not in the real world, for socialism never has been and there is no reason to believe it ever will be. The end, so far as I can discern it, is centralized and totalized power, absolute and unrestrained, power wielded so it may be maintained. Whether men believe the promises of socialism is significant only to the extent that their belief leads them to yield power and obeisance to the state. The new feudal organizations will be broken when it becomes expedient to break them. The feudal privileges will be withdrawn when it will serve the purposes of those in power to do so. The record of this century is clear on the matter. The communists

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have broken all groups which might oppose them, as have other socialists such as the Nazis.

Revival of the Worst Features of the Middle Ages

The New Feudalism does not hold for us, then, the promise of containment of power. It does bring in its wake, as a more permanent residue, some of the least prized features of the old feudalism. Namely, it revives serfdom, that personal servitude which was the bain of existence in the Middle Ages. The New Serfdom comes in many ways: in heavier and heavier taxation, in restrictions and controls upon property, in the manipulation of the money supply to impel us to use it in ways the bureaucracy has determined are beneficial. The rigidities and inflexibilities of feudalism are revived and promise to become permanent features as government control and regulation. As the independence of individuals is sapped by these and other measures, what were formerly rights become vestiges as privileges granted by government. Thus, arbitrary privileges become a universal feature of the remains of the New Feudalism.

Three points emerge from the above analysis. First, far from being progressive, the new political thought and developments of our era are retrogressive in reviving some of the worst features of the Middle Ages. Second, one of the major developments of our era is a reversion to feudalism. Third, the power allotted to the feudalistic groups is largely a means for politicalizing life. What is likely to remain from this effort is totalized power and a residual serfdom.

Perhaps, it is unnecessary to point the moral. At any rate, it is high time we stop deluding ourselves about the character of developments that have been taking place. The New Feudalism tends to further concentrate political power rather than disperse and check it. ◈

IDEAS ON LIBERTY

Governments May Change

THERE IS NO FORM of government which has the prerogative to be immutable. No political authority, which is created yesterday or a thousand years ago, may not be abrogated in ten year's time or tomorrow. No power, however respectable, however sacred, that is authorized to regard the state as its property.

From RAYNAL'S *Revolution of the American Colonies* 1781

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THE COURT AND THE CONSTITUTION

IN *The Warren Revolution* (Arlington House, $7), L. Brent Bozell has written a tough and knotty book that challenges all our preconceptions, whether radical or conservative, about the place of the Supreme Court in the division of the powers. I found it enormously stimulating and enormously unsettling. If Mr. Bozell is right in his contention that "judicial review" of legislative acts was no part of the intention of the Founding Fathers who wrote the Constitution, then it follows that the Warren Court has usurped some dangerous powers. In such case, we live under a judicial tyranny.

A conservative or a libertarian, looking at the Warren Court's decisions alone, will naturally be inclined to applaud Mr. Bozell's thesis. What business have the judges telling the states how to run themselves? But, projecting Mr. Bozell's thinking back into the Rooseveltian Thirties, when Congress was busy passing some legislation that seemed plainly unconstitutional on its face, what becomes of the libertarian's contention that the judges were a craven lot when they decided that "a switch in time saves nine"? What Mr. Bozell is saying is that the judges exceed their power whenever they challenge legislative supremacy, even in cases when the legislators go beyond the Constitution. Under this construction, all our criticism of the court for failing to put an end to New Deal excesses in the Nineteen Thirties becomes irrelevant. Personally, as a veteran of the older wars that pre-date Earl Warren, I find this hard to take.

In short, if Brent Bozell is right, the old contest between those who want the Supreme Court justices to be strict constructionists and those who want them to be loose constructionists

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is entirely beside the point. They shouldn't be passing definitive judgment on what the legislators do at all.

Education and Religion

Waiving the desirability of correct judicial review for the moment, let us look at Mr. Bozell's reading of the historical record. The Warren Court has acted on the tradition that Charles Evans Hughes was right when he said, "We are under a Constitution, but the Constitution is what the judges say it is." Mr. Bozell spends some time on his proof, which seems irrefutable to me, that, under the Tenth (or States' Rights) Amendment, the individual states should be in full control of their educational establishments and their laws covering voter qualification, provided they maintain "a republican form of government."

The Congress that passed the Fourteenth Amendment, which guarantees "equal protection" of the laws to all U.S. citizens, had no manifest intention of interfering with local schools or of telling the states how they were to apportion the voting for both houses of their legislatures. In fact, the same Congress that voted for considering the Fourteenth Amendment also established schools in Washington "for the sole use of . . . colored children," which is an indication that the "equal protection" clause was only intended to cover such things as the enforcement of contracts, the right to sue, the right to give evidence, to inherit, purchase, lease, sell, hold, and convey property, and to enjoy security of person and ownership. This is not to say that segregated schools are a good thing; it is only to say that under the Tenth Amendment it is the business of the separate states to handle things not constitutionally assigned to the Federal authorities.

Disregarding the intention of Congress in proposing the Fourteenth Amendment, the Warren Court decided to make its own law about application of the equal protection clause to things that had been left to the states under the Tenth Amendment. It also translated the words, "Congress shall make no law respecting an establishment of religion," to mean that states should not make such laws, either. As for state sedition laws, the Warren Court argued in *Pennsylvania* v. *Nelson* that "Congress has intended to occupy the field of sedition" – and this despite the fact that the author of the Federal anticommunist act, Congressman Smith of Virginia, has said explicitly that he had no thought of interfering with

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the right of the states to pass antisedition laws on their own.

Mr. Bozell reviews the Warren Court misinterpretation of the Constitution with evident distaste for the whole business. But his argument against judicial review would be the same even if Congress had passed some flagrantly unconstitutional laws and the Warren Court had then proceeded to throw them out.

No Final Arbiter

What Mr. Bozell contends is that there is no "final arbiter" of the Constitution. He goes deep into history to show that, far from inheriting a tradition of judicial review from Coke in England and from the experience of the colonies before the Revolution, we had, actually, absorbed the opposite idea of legislative supremacy. Even Coke, he says, devoted the best part of his career to expounding the right of the English parliament to make whatever laws it chose to make; his early championship of the Bonham case, which could be interpreted as putting the courts above parliament, was just a tantalizing aberration.

In the eleven years between the Declaration of Independence and the framing of the Constitution there were allegedly nine instances in which the courts of the states presumed to sit in judgment on what the local legislators had done. But when Mr. Bozell began to look into these instances in detail, he found that only one of them actually proves what the supporters of judicial review say of them all. In 1787, just when the Founders were about to meet in Philadelphia, a court in New Bern, North Carolina, actually proclaimed that one of North Carolina's legislative acts must "stand as abrogated." This, says Mr. Bozell, "was a form of words never before uttered from a judicial bench in America, or for that matter in the Anglo-Saxon world." When Richard Spaight, one of the North Carolina delegates to the Constitutional Convention, heard of the decision, he wrote home to denounce it as "usurpation of authority" and "contrary to the practise of all the world." So, if Spaight acquainted other delegates with the decision of the New Bern judges, he would hardly have helped prejudice them in favor of setting up a Supreme Court of the United States with full power to negate Congress. Mr. Bozell spends a lot of time on the meaning of the Supremacy Clause in the U.S. Constitution, and reaches the conclusion that the Founding Fathers intended to let the judges of the separate state courts be the guardians of the Constitution

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in case of conflict between state and national laws.

In the Course of Time

If the Supreme Court was not intended as a "final arbiter," but merely as a court to render judgments in cases as they affected individual litigants, aren't we left with a final fuzziness that leaves the Bill of Rights at the mercy of legislators? Perhaps we are. But James Madison, among others, thought we could live with it. The authors of the *Federalist Papers* thought that the natural processes of tension and competition among the various public authorities would finally settle things. If Congress were to pass bad or unconstitutional laws, it would be finally disciplined by the people. Or the courts might simply refuse to punish someone who had been victimized by an unconstitutional act, and Congress would be forced to reconsider its own behavior. Out of the tensions imposed by the workings of checks and balances, out of the stresses, strains, rivalries, and competitions of the consensus society, a "final" decision would emerge.

Was Madison naive in supposing this? Is Mr. Bozell naive in following Madison? Well, suppose that the Supreme Court had not forced the integration issue. Isn't it likely that the individual states – yes, even Alabama and Mississippi – would have found their way to recognizing the brotherhood of man without being told they must do so with all deliberate speed? Mr. Bozell says that in a consensus society some things had best be left to the "flexibility of the fluid constitution," which allows "our various governmental structures to absorb and reflect the diverse shifts in community consensus that are going on down below." And the question he finally asks is "whether the Warren Revolution is in the best interests of the American commonwealth, and, if not, what weapons are available for the Counter-Revolution?" ◈

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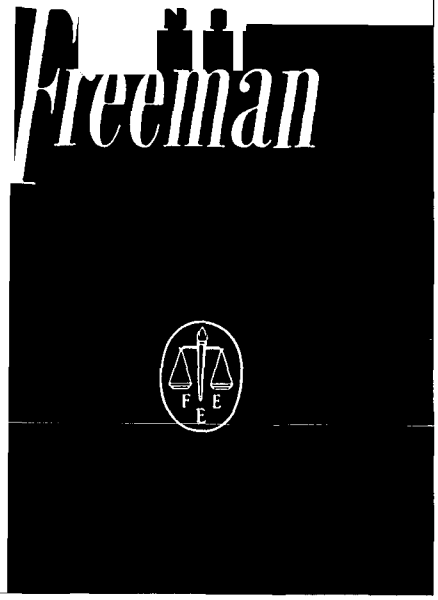

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